

# SUBMISSION

Submission to Treasury —  
Ban on the use of adverse  
testing results in life  
insurance

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12 March 2025

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Insurance Unit

Financial System Division

The Treasury

Via email: [genetictestinglifeinsurance@treasury.gov.au](mailto:genetictestinglifeinsurance@treasury.gov.au)

12 March 2025

Dear Sir/Madam

**Ban on the use of adverse testing results in life insurance**

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the consultation on the ban on the use of adverse testing results in life insurance.

**About ASFA**

ASFA has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers.

We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians.

ASFA has a keen focus on matters that impact the outcomes achieved by individuals through the superannuation system, their experiences with the system, and issues that impede the industry's operational effectiveness. We welcome this latest package of miscellaneous amendments, which reduce uncertainty by correcting technical and drafting defects, removing anomalies and addressing unintended outcomes.

## **ASFA's general position on the proposed ban**

ASFA supports the introduction of a total legislative ban on requesting access to and use of adverse genetic test results in life insurance underwriting. This ban would provide certainty that the results of any genetic testing undertaken by individuals (performed either for personal medical reasons or as participants in clinical research) cannot be requested or used by life insurers when underwriting a life insurance policy.

There is anecdotal and other evidence that individuals can be reluctant to have genetic testing undertaken because of the implications for how they will be treated for purposes of life insurance.

Group insurance through superannuation is a major source of insurance cover in Australia. APRA data indicates that as at June 2024 there were some 8.8 million fund members with death benefit insurance, 8.1 million with Total and Permanent Disability Insurance and 4.3 million with Disability Income Insurance.

Most members have insurance cover at levels which are the default level cover for the member's age. Default cover in just about all cases will be below the thresholds for disclosure of genetic test information that is set out in Financial Services Council Standard Number 11, Moratorium on Genetic Tests in Life. The position in regard to Disability Income Insurance is less clear given that the threshold is \$4,000 a month for income protection cover, which is not a particularly high level.

Only a minority of cover through superannuation is underwritten. APRA data indicates that only around 10 per cent had higher cover than default levels which involved underwriting. However, this amounts to at least 900,000 individuals. That said, in many cases the underwritten level of cover will be below the amounts set out in the Financial Services Council moratorium document.

Only a small proportion of those with underwritten policies will have taken a relevant genetic test. A recent Australian study of individuals aged over 45 indicated that around 5 per cent had undertaken disease related genetic testing<sup>1</sup>.

Sector research released in 2021 indicated that around 10 per cent of individuals who disclosed a genetic test result had insurance cover offered on less favourable terms or had cover declined<sup>2</sup>.

Running through the various percentages, it is likely that currently no more than a few thousand of the 9 million or so individuals with group life cover through superannuation currently would have life cover subject to additional terms or would have cover declined because of a genetic test result. This suggests that the aggregate cost to insurers providing group cover through superannuation of banning use of adverse genetic testing will be quite low, especially given that only a proportion of individuals with an adverse genetic test result will go on to have an insurance claim. However, use of genetic testing may well increase in the future, especially if there is a ban on the use of adverse genetic test results in the underwriting of insurance. The incidence of both individually underwritten insurance and higher levels of cover are greater outside of superannuation.

The benefits of increased levels of genetic testing in terms of disease detection and treatment justify a ban on the disclosure of adverse genetic test results.

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<sup>1</sup> <https://www.nature.com/articles/s41431-025-01816-x>

<sup>2</sup> <https://fsc.org.au/news/media-release/genetics-moratorium>

### **How the term “genetic test” should be defined for the purposes of the proposed ban**

ASFA agrees that the test legislated in New Zealand is a contemporary definition that would be reasonable to use as a starting point in development of Australian legislation. ASFA recommends that any definition be in subordinate legislation given advances in medical technology will continue in the future.

### **Consent to the release and use of genetic test results**

ASFA considers that consent by an individual to the use of genetic test results should be explicit, unequivocal and be in writing. A life insurance company should not be able to use genetic test results that are provided in the context of the forwarding of general medical records for an individual.

Genetic test results provided in the context of a past application for insurance (prior to the introduction of the proposed ban) should not be treated as evidence as consent to use the results in a future application for insurance.

### **Commencement of the ban and transitional arrangements**

ASFA considers that the ban should only apply to new applications following the commencement of the ban. It should not apply to applications lodged but not finalised when the ban comes into effect. If an individual is not satisfied with the terms offered by the insurer it would be open to the individual to make a new application where genetic test results were not allowed to be used.

In terms of transitional arrangements it would be desirable to have the ban be effective after an appropriate period of time from Royal Assent in order to allow funds and insurers to change administrative procedures and to reprice insurance offerings where necessary.

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If you have any queries or comments in relation to our submission, please contact Ross Clare on (02) 8079 0809 or by email [rclare@superannuation.asn.au](mailto:rclare@superannuation.asn.au).

Yours sincerely

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