

# FSC Standard No. 11

## Moratorium on Genetic Tests in Life Insurance

June 2019

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**FSC Membership this Standard is most relevant to:**

This Standard is binding on FSC Members who are “Life Insurance Provider(s)” as defined in FSC Guidance Note 5 Industry Terms and Definitions.

This definition includes any FSC Member that is a friendly society which is authorised by Australian Prudential Regulation Authority (APRA) to carry on life insurance business under the Life Insurance Act 1995 (Cth) and/or is treated by the Act as if it were so registered under that Act.

**Date of this version:**

This Standard was issued on 21 June 2019 and starts on 1 July 2019.

**History (prior versions) of this Standard:**

This Standard was first approved by the FSC Board on 13 December 2001 to take effect from 1 January 2002.

The Standard subsequently was reviewed and approved by the FSC Board on 7 December 2016.

This version of the Standard was reviewed and approved by the FSC Board on 21 June 2019.

**Main Purposes of this Standard:**

The purpose of this Standard is to ensure people can access a level of life insurance without being asked about the result of a previously taken Genetic Test.

**This Standard is to be read in conjunction with the Life Insurance Code of Practice, Standard 16, Standard 21, Standard 24, Standard 25, Standard 26, Guidance Note 11, Guidance Note 32, Guidance Note 33.**

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## 1 Introduction

- 1.1. Genetic Testing has the potential to play an important role in informing people about their health and enabling them to manage their health risks through preventative actions and personalised medicine.
- 1.2. It is important that public concerns about the use of Genetic Test results in life insurance do not dissuade people from taking Genetic Tests or taking part in genetic research.
- 1.3. The objective of the Moratorium on Genetic Tests in Life Insurance (the Moratorium) is to ensure people can access a level of life insurance without being asked about the result of a previously taken Genetic Test.

## 2 Scope of the Moratorium

- 2.1. The Moratorium covers an Applicant for individually Underwritten life insurance (including individually Underwritten life insurance in group insurance) with an FSC member.
- 2.2. The Moratorium starts for applications received on or after 1 July 2019 and applies until 30 June 2024.
- 2.3. Life Insurance Providers must implement the Moratorium as a priority and must not use adverse Genetic Test results in accordance with the limits in clause 3.3 on or after 1 July 2019. To allow all industry participants to transition, for example, by replacing stocks of printed application forms in circulation, informing and training financial advisers, updating systems, and encouraging superannuation funds to update their application forms and processes, the following sunset clauses apply for a maximum period of 6 months until 1 January 2020:
  - Clause 3.3 applies with the words “ask for or” omitted.
  - Clause 3.6 applies with both occurrences of the words “ask for or” omitted.
  - Clause 4 applies with the words “ask for or” omitted.

## 3 Underwritten applications for life insurance

- 3.1. The overriding principle is that, for all applications irrespective of the amount of Cover and any other clause in the Moratorium, Life Insurance Providers are entitled to ask Applicants to disclose, and use as part of their Underwriting process, any diagnosis of a condition, even if the diagnosis resulted directly or indirectly from a Genetic Test.
- 3.2. For all applications, irrespective of the amount of Cover, Life Insurance Providers will not ask or otherwise encourage Applicants to:
  - Take a Genetic Test as part of their application and Underwriting process.
  - Disclose the result of a Genetic Test that was taken as part of a medical research study conducted by an accredited university or medical research institution where either of the following apply:
    - The test results have not been, and will not be, provided to the Applicant.
    - The Applicant has specifically asked not to receive the test results.
- 3.3. As part of the application process for the benefits listed below, Life Insurance Providers may only ask for or use the results of a Genetic Test if the total amounts of Cover the Applicant would have, including both the Cover being applied for and any existing individual and group insurance Cover with all life insurers in aggregate, is more than any of the following:
  - \$500,000 of lump sum death Cover.
  - \$500,000 of total permanent disability Cover (TPD).
  - \$200,000 of trauma and/or critical illness Cover.
  - \$4,000 a month in total of any combination of income protection, salary continuance or business expenses Cover.

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- 3.4. Where an Applicant's total amount of Cover exceeds any of the limits in clause 3.3, a Life Insurance Provider may ask for and use the result of a previously taken or planned Genetic Test (where planned means the Applicant has consented to have a Genetic Test) when assessing the full amount of Cover being applied for across all types, provided that an evidence base shows that the test has relevance to the Cover applied for, in accordance with the Disability Discrimination Act.
- 3.5. Life Insurance Providers will take the following into account as part of their Underwriting assessment:
  - A favourable Genetic Test result an Applicant chooses to disclose, irrespective of the amount of Cover, for example, to show that they are not carrying a gene pattern associated with developing an illness that runs in their family.
  - Evidence based preventative treatment, or adherence to evidence based preventative measures, which reduce the possibility of developing an illness that runs in their family.
- 3.6. A Life Insurance Provider will only ask for or use Genetic Test results as part of the process to decide the terms offered for Cover in accordance with clause 3.3. For example, this means that a Life Insurance Provider will not ask for or use adverse Genetic Test results, even if the limits in clause 3.3 are exceeded due to an increase in Cover without Underwriting through automatic yearly increases in Cover.
- 3.7. Life Insurance Providers must ensure that Underwriting staff can consult a medical professional (for example, a Chief Medical Officer) where a Genetic Test result is deemed to be relevant in the Underwriting assessment.
- 3.8. Life Insurance Providers must comply with privacy law regarding sensitive information in asking for, using, and retaining Genetic Test results in their life insurance operations.
- 3.9. For the purposes of governance and compliance, and to inform the review described in section 4.1, Life Insurance Providers will record anonymous details of all Genetic Test results received as part of the Underwriting process, whether or not the Life Insurance Provider asked for them, on the FSC database of Genetic Test results.

## 4 Claims assessments

- 4.1. When assessing claims, Life Insurance Providers will not treat the insured person as having breached their duty of disclosure for not disclosing the results of a Genetic Test that the Life Insurance Provider was not entitled to ask for or use as part of their Underwriting process in accordance with the Moratorium.

## 5 Review

- 5.1. During 2022, FSC in consultation with stakeholders will undertake a review of the Moratorium, taking account of its objectives and the following, with a view to extending the date:
  - Feedback from consumer groups and expert stakeholders.
  - The appropriateness of the amounts of Cover in clause 3.3, taking into account any cross-subsidy between customers who have a genetic pre-disposition and those who do not.
  - The rates of participation in genetic research.
  - Advances in the field of genomics and Genetic Testing.
  - Impacts of the Moratorium on the sustainability of the life insurance industry.
- 5.2. FSC will not reduce the term of, or otherwise change, the Moratorium outside this review process.

## 6 Definitions

- 6.1. For the purposes of the Moratorium, the following terms have the associated meaning:
  - Applicant – the person who will be insured in an application for a life insurance policy.

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- Cover – any type of life insurance, being lump sum death cover, total permanent disability cover (TPD), trauma/critical illness cover, or income protection/salary continuance/business expenses cover.
- Genetic Test – a test which examines a person's chromosomes or DNA. For the avoidance of doubt, it does not include any non-genetic medical tests (for example, blood or urine tests for proteins, cholesterol, liver function or diabetes), even if they are to test for a condition that may have a genetic origin.
- Underwriting – completing the process the Life Insurance Provider uses to decide the terms it will offer when people apply for Cover.