

# EXPOSURE DRAFT



EXPOSURE DRAFT

## **Financial Sector Reform (Hayne Royal Commission Response) (Claimant Intermediaries) Regulations 2020**

---

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2020

David Hurley  
Governor-General

By His Excellency's Command

Josh Frydenberg [**DRAFT ONLY—NOT FOR SIGNATURE**]  
Treasurer

---

EXPOSURE DRAFT



# EXPOSURE DRAFT

---

## Contents

1	Name.....	1
2	Commencement.....	1
3	Authority.....	1
4	Schedules .....	1
	<b>Schedule 1—Claimant intermediaries</b>	<b>2</b>
	<i>Corporations Regulations 2001</i>	<i>2</i>



# EXPOSURE DRAFT

---

## 1 Name

This instrument is the *Financial Sector Reform (Hayne Royal Commission Response) (Claimant Intermediaries) Regulations 2020*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Corporations Act 2001*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

# EXPOSURE DRAFT

## Schedule 1—Claimant intermediaries

### *Corporations Regulations 2001*

#### 1 After regulation 7.1.04C

Insert:

#### **7.1.04CAA Meaning of *claimant intermediary*—persons excluded from being claimant intermediaries**

- (1) For the purposes of subsection 761CAA(2) of the Act, a person is not a claimant intermediary in the circumstances set out in subregulation (2), (4), (5), (6), (7), (8), (9), (10) or (11).

##### *Mortgage brokers and mortgage intermediaries*

- (2) The circumstances are:
- (a) the person is a mortgage broker or mortgage intermediary; and
  - (b) the mortgage broker or mortgage intermediary provides a credit service to a consumer; and
  - (c) the mortgage broker or mortgage intermediary represents the consumer in pursuing a claim under an insurance product.
- (3) Expressions used in subregulation (2) that are also used in the *National Consumer Credit Protection Act 2009* have the same meaning in that subregulation as they have in that Act.

##### *Insurance brokers*

- (4) The circumstances are:
- (a) the person is an insurance broker (within the meaning of the *Insurance Contracts Act 1984*); and
  - (b) the insurance broker arranges a contract of insurance as agent for an intended insured (the *client*); and
  - (c) the insurance broker represents the client in pursuing a claim under the contract.

##### *Qualified accountants*

- (5) The circumstances are:
- (a) the person is a qualified accountant; and
  - (b) the qualified accountant provides one or more of the following services to a person (the *client*):
    - (i) preparing a financial report or financial statements (including, but not limited to, a financial report or financial statements required under the Act);
    - (ii) auditing financial records;
    - (iii) a tax agent service (within the meaning of the *Tax Agent Services Act 2009*);

# EXPOSURE DRAFT

Claimant intermediaries **Schedule 1**

---

- (iv) if the qualified accountant is a limited licensee (within the meaning of subregulation 7.6.04(3)) or supervises and has responsibility for the provision of financial services covered by the financial services licence of a limited licensee—a financial service covered by the financial services licence of the limited licensee; and
- (c) the qualified accountant represents the client in pursuing a claim under an insurance product.

## *Veterinarians*

- (6) The circumstances are:
  - (a) the person (the *veterinarian*) is registered under the law of a State or Territory as a veterinarian, veterinary practitioner or veterinary surgeon; and
  - (b) the veterinarian represents a person insured under an insurance product in pursuing a claim under the product; and
  - (c) the claim relates to the management or prevention of a disease, injury or condition of an animal covered by the insurance product.

## *Travel agents*

- (7) The circumstances are:
  - (a) the person is a travel agent; and
  - (b) the travel agent represents a person insured under an insurance product in pursuing a claim under the product; and
  - (c) the claim relates to any of the following matters covered by the insurance product:
    - (i) financial loss for fares for any form of transport or accommodation to be used in the course of a specified journey if the insured person does not start or complete the journey;
    - (ii) loss or damage to personal belongings while the insured person is on a specified journey;
    - (iii) a sickness or disease contracted, or injury sustained, by the insured person on a specified journey;
    - (iv) loss, damage or compensation for an event affecting the insured person on a specified journey that ordinarily forms a part of insurance commonly regarded as travel insurance, including loss of cash or credit cards, legal liability, hijack, kidnap or ransom.

## *Financial advisers*

- (8) The circumstances are:
  - (a) the person (the *financial adviser*) holds an Australian financial services licence that authorises the financial adviser to provide financial product advice; and
  - (b) the financial adviser provides personal advice to a person as a retail client; and
  - (c) the financial adviser represents the person in pursuing a claim under an insurance product.

# EXPOSURE DRAFT

## Schedule 1 Claimant intermediaries

---

### *Property managers*

- (9) The circumstances are:
- (a) the person (the ***property manager***) carries on a business of managing property; and
  - (b) the property manager manages property on behalf of one or more other persons; and
  - (c) the property manager represents a person insured under an insurance product in pursuing a claim in relation to the property under the insurance product.

### *Estate management*

- (10) The circumstances are:
- (a) the person (the ***estate manager***) administers the estate of a person who is:
    - (i) deceased; or
    - (ii) incapable of managing the person's own affairs because of physical or mental incapacity; and
  - (b) the estate manager represents a person insured under an insurance product in pursuing a claim under the insurance product; and
  - (c) the claim relates to the estate or its administration.

### *Public Trustees etc.*

- (11) The circumstances are:
- (a) the person (the ***estate manager***) is the Public Trustee (however described) of a State or Territory; and
  - (b) the estate manager administers the estate of a person; and
  - (c) the estate manager represents a person insured under an insurance product in pursuing a claim under the insurance product; and
  - (d) the claim relates to the estate or its administration.