

# EXPOSURE DRAFT



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## **Australian Securities and Investments Commission Amendment (Deferred Sales Model Exemptions) Regulations 2021**

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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 2021

David Hurley  
Governor-General

By His Excellency's Command

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

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EXPOSURE DRAFT



# EXPOSURE DRAFT

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## Contents

1	Name.....	1
2	Commencement .....	1
3	Authority.....	1
4	Schedules .....	1
	<b>Schedule 1—Amendments</b>	<b>2</b>
	<i>Australian Securities and Investments Commission Regulations 2001</i>	<i>2</i>



# EXPOSURE DRAFT

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## 1 Name

This instrument is the *Australian Securities and Investments Commission Amendment (Deferred Sales Model Exemptions) Regulations 2021*.

## 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 later of: (a) the day after this instrument is registered; and (b) 5 October 2021.	

Note: This table relates only to the provisions of this instrument as originally made.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 *Australian Securities and Investments Commission 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 Amendments

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## Schedule 1—Amendments

### *Australian Securities and Investments Commission Regulations 2001*

#### 1 After Part 2

Insert:

### Part 2A—Deferred sales model exemptions

#### 12A Definitions

In this Part:

*add-on comprehensive motor vehicle or vessel insurance product* has the meaning given by regulation 12C.

*add-on compulsory third party motor vehicle insurance product* has the meaning given by regulation 12D.

*add-on home and contents insurance product* has the meaning given by regulation 12E.

*add-on home building insurance product* has the meaning given by regulation 12F.

*add-on landlord insurance product* has the meaning given by regulation 12G.

*add-on limited motor vehicle insurance product* has the meaning given by regulation 12H.

*add-on transport and delivery insurance product* has the meaning given by regulation 12J.

*add-on travel insurance product* has the meaning given by regulation 12K.

*business-related add-on insurance product* has the meaning given by regulation 12L.

*designated contents* means any of the following:

- (a) furniture, furnishings and carpets (whether fixed or unfixed);
- (b) household goods;
- (c) clothing and other personal effects;
- (d) pictures;
- (e) works of art;
- (f) furs;
- (g) pieces of jewellery;
- (h) gold or silver articles;
- (i) documents of any kind;
- (j) collections of any kind.

***designated vehicle or vessel*** means:

- (a) a motor vehicle; or
- (b) a vessel within the meaning of the *Navigation Act 2012*.

***motor vehicle*** has the meaning given by subsection 12BA(1) of the Act.

***registrable superannuation entity*** has the meaning given by the *Superannuation Industry (Supervision) Act 1993*.

***superannuation-related add-on insurance product*** has the meaning given by regulation 12M.

## **12B Deferred sales model exemptions**

- (1) For the purposes of subsection 12DX(1) of the Act, the following classes of add-on insurance products are exempted from sections 12DQ, 12DR and 12DS of the Act:
  - (a) add-on comprehensive motor vehicle or vessel insurance products;
  - (b) add-on compulsory third party motor vehicle insurance products;
  - (c) add-on home and contents insurance products;
  - (d) add-on home building insurance products;
  - (e) add-on landlord insurance products;
  - (f) add-on limited motor vehicle insurance products;
  - (g) add-on transport and delivery insurance products;
  - (h) add-on travel insurance products;
  - (i) business-related add-on insurance products;
  - (j) superannuation-related add-on insurance products.
- (2) This regulation does not apply to an add-on insurance product that relates to a principal product or service (within the meaning of section 12DO of the Act) if:
  - (a) a person enters into a commitment to acquire the principal product or service after the end of the period of 5 years beginning on the day this regulation commences; or
  - (b) a person acquires the principal product or service after the end of that period without previously having entered into such a commitment.

## **12C Meaning of *add-on comprehensive motor vehicle or vessel insurance product***

An ***add-on comprehensive motor vehicle or vessel insurance product*** is an add-on insurance product that provides insurance cover:

- (a) to a consumer who:
  - (i) wholly or partly owns a designated vehicle or vessel; or
  - (ii) has the use of a designated vehicle or vessel under a lease of at least 4 months' duration; and
- (b) in respect of all of the following (whether or not the product also provides insurance cover in respect of other matters):
  - (i) loss of, or damage to, the designated vehicle or vessel resulting from an accident;
  - (ii) loss of, or damage to, property of another person resulting from an accident in which the designated vehicle or vessel is involved;

# EXPOSURE DRAFT

## Schedule 1 Amendments

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- (iii) loss of, or damage to, the designated vehicle or vessel caused by fire, theft or malicious acts.

### **12D Meaning of *add-on compulsory third party motor vehicle insurance product***

An *add-on compulsory third party motor vehicle insurance product* is an add-on insurance product that provides insurance cover in respect of the death of a person, or for the injury to a person, arising out of the use of a motor vehicle.

### **12E Meaning of *add-on home and contents insurance product***

- (1) Subject to subregulation (3), an *add-on home and contents insurance product* is an add-on insurance product that provides insurance cover (whether or not the cover is restricted) in respect of the destruction of, or damage to:
  - (a) a building used, or intended to be used, principally and primarily as a place of residence (other than a building of a kind specified in subregulation (2)); and
  - (b) any of the following things on the site specified in the add-on insurance product as the site on which the building is situated (the *relevant site*):
    - (i) out-buildings, fixtures or structural improvements used for purposes related to the use of the building;
    - (ii) fixed wall coverings, fixed ceiling coverings or fixed floor coverings (other than carpets);
    - (iii) services (whether underground or not) that are the property of a person insured under the add-on insurance product or that, under the add-on insurance product, the insured person is liable to repair or replace or pay the cost of repairing or replacing;
    - (iv) fences and gates wholly or partly on the relevant site; and
  - (c) the designated contents of the building and any out-building covered by subparagraph (b)(i).
- (2) The following kinds of building are specified for the purposes of paragraph (1)(a):
  - (a) a hotel;
  - (b) a motel;
  - (c) a boarding house;
  - (d) a building that:
    - (i) is in the course of construction; and
    - (ii) is being constructed by a person insured, or to be insured, under the add-on insurance product in the course of a construction business;
  - (e) a temporary building or structure or a demountable or moveable structure;
  - (f) a caravan (whether or not fixed to the relevant site).
- (3) An add-on insurance product is not an add-on home and contents insurance product if the product is entered into, or proposed to be entered into, for the purposes of a law (including a law of a State or Territory) that relates to building or construction work.



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## **12F Meaning of *add-on home building insurance product***

- (1) Subject to subregulation (3), an ***add-on home building insurance product*** is an add-on insurance product that provides insurance cover (whether or not the cover is restricted) in respect of the destruction of, or damage to:
  - (a) a building used, or intended to be used, principally and primarily as a place of residence (other than a building of a kind specified in subregulation (2)); and
  - (b) any of the following things on the site specified in the add-on insurance product as the site on which the building is situated (the ***relevant site***):
    - (i) out-buildings, fixtures or structural improvements used for purposes related to the use of the building;
    - (ii) fixed wall coverings, fixed ceiling coverings or fixed floor coverings (other than carpets);
    - (iii) services (whether underground or not) that are the property of a person insured under the add-on insurance product or that, under the add-on insurance product, the insured person is liable to repair or replace or pay the cost of repairing or replacing;
    - (iv) fences and gates wholly or partly on the relevant site.
- (2) The following kinds of building are specified for the purposes of paragraph (1)(a):
  - (a) a hotel;
  - (b) a motel;
  - (c) a boarding house;
  - (d) a building that:
    - (i) is in the course of construction; and
    - (ii) is being constructed by a person insured, or to be insured, under the add-on insurance product in the course of a construction business;
  - (e) a temporary building or structure or a demountable or moveable structure;
  - (f) a caravan (whether or not fixed to the relevant site).
- (3) An add-on insurance product is not an add-on home building insurance product if the product is entered into, or proposed to be entered into, for the purposes of a law (including a law of a State or Territory) that relates to building or construction work.

## **12G Meaning of *add-on landlord insurance product***

An ***add-on landlord insurance product*** is an add-on insurance product that:

- (a) provides insurance cover to the insured person in respect of:
  - (i) loss of, or damage to, real property leased by the insured person to another person; or
  - (ii) financial loss, including loss of rental income, relating to a lease of real property by the insured person to another person; and
- (b) is commonly regarded as landlord insurance.

# EXPOSURE DRAFT

## 12H Meaning of *add-on limited motor vehicle insurance product*

An *add-on limited motor vehicle insurance product* is an add-on insurance product that provides insurance cover:

- (a) to a consumer who:
  - (i) wholly or partly owns a motor vehicle; or
  - (ii) has the use of a motor vehicle under a lease of at least 4 months' duration; and
- (b) in respect of either or both of the following:
  - (i) loss of, or damage to, property of another person resulting from an accident in which the motor vehicle is involved;
  - (ii) loss of, or damage to, the motor vehicle caused by fire or theft; and
- (c) in respect of no other matter.

## 12J Meaning of *add-on transport and delivery insurance product*

An *add-on transport and delivery insurance product* is an add-on insurance product that provides insurance cover (whether or not the cover is restricted) in respect of the loss of, or damage to, any matter or thing in the course of the transport or delivery of the matter or thing.

## 12K Meaning of *add-on travel insurance product*

An *add-on travel insurance product* is an add-on insurance product that provides insurance cover (whether or not the cover is restricted) in respect of any of the following:

- (a) 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;
- (b) loss or damage to personal belongings while the insured person is on a specified journey;
- (c) a sickness or disease contracted, or injury sustained, by the insured person on a specified journey;
- (d) 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.

## 12L Meaning of *business-related add-on insurance product*

An add-on insurance product is a *business-related add-on insurance product* if:

- (a) the add-on insurance product is offered or sold to a consumer in connection with the consumer acquiring, or entering into a commitment to acquire, another product or service in the course of carrying on a business; and
- (b) the premium payable under the add-on insurance product exceeds \$40,000.

## 12M Meaning of *superannuation-related add-on insurance product*

A *superannuation-related add-on insurance product* is an add-on insurance product that:

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# EXPOSURE DRAFT

Amendments **Schedule 1**

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- (a) is offered or sold to a consumer in connection with the consumer acquiring, or entering into a commitment to acquire, another product or service from a registrable superannuation entity; and
- (b) provides insurance cover (whether or not the cover is restricted) in respect of one or more of the following:
  - (i) the consumer's death;
  - (ii) the consumer's total and permanent disability;
  - (iii) loss of income by the consumer.

**EXPOSURE DRAFT**