



# **Australian Securities and Investments Commission Amendment (Deferred Sales Model) 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 16 September 2021

David Hurley  
Governor-General

By His Excellency's Command

Josh Frydenberg  
Treasurer

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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> |



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## 1 Name

This instrument is the *Australian Securities and Investments Commission Amendment (Deferred Sales Model) 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:<br>(a) the day after this instrument is registered; and<br>(b) 5 October 2021. | 5 October 2021<br>(paragraph (b) applies) |

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

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

#### 1 After regulation 3A

Insert:

#### 3B Deferred sales for add-on insurance products—when consumer enters into a commitment

- (1) For the purposes of subsection 12DO(3) of the Act, a consumer is taken to have entered into a commitment to acquire a product or service of a class specified in column 1 of the following table at the time specified in column 2.

| Deferred sales for add-on insurance products—when consumer enters into a commitment |  |   |
|---|--|---|
|   | Column 1   | Column 2  |
| Item  | Class of product or service  | Time of entering into commitment  |
| 1   | A credit card  | The time at which the consumer is informed in writing of the approval of the credit facility  |
| 2   | A loan secured by a mortgage, charge or other security interest over residential property in Australia | The time at which the consumer is informed in writing of the approval of the credit facility  |
| 3   | A loan for the purchase of a motor vehicle   | The time at which the consumer is informed in writing of the approval of the credit facility  |
| 4   | A loan for personal, domestic or household purposes  | The time at which the consumer is informed in writing of the approval of the credit facility  |
| 5   | The hire of a motor vehicle  | Either:<br>(a) if the consumer makes a reservation for the hire of the vehicle before taking possession of the vehicle—the time at which the consumer makes the reservation; or<br>(b) otherwise—the time at which the consumer takes possession of the vehicle |

- (2) In this regulation:

*motor vehicle* means a motor-powered road vehicle (including a 4-wheel-drive vehicle).

#### 2 After Part 2

Insert:

### Part 2A—Deferred sales model exemptions

#### 12A Definitions

In this Part:

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***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 or vessel 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.

***building*** includes a caravan.

***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 or vessel 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 (whether or not the cover is restricted):

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

but does not include an add-on insurance product that is covered by section 12DW of the Act (about comprehensive motor vehicle insurance).

## 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 (whether or not the cover is restricted) in respect of the death of a person, or for the injury to a person, arising out of the use of a motor vehicle.



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**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.
- (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.

**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.
- (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 (whether or not the cover is restricted) 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.

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

An *add-on limited motor vehicle or vessel insurance product* is an add-on insurance product that provides insurance cover (whether or not the cover is restricted or the product also provides insurance cover in respect of other matters):

- (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 either or both of the following:
  - (i) loss of, or damage to, property of another person resulting from an accident in which the designated vehicle or vessel is involved;
  - (ii) loss of, or damage to, the designated vehicle or vessel caused by fire or theft.

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**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:

- (a) the transport or delivery of the matter or thing; and
- (b) any storage of the matter or thing that is incidental to its transport or delivery.

**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) transport or accommodation costs relating to 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 price of the add-on insurance product exceeds \$1,000.

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

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

- (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 in 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.