

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Corporations (Fees) Act 2001

*Corporations (Fees) Amendment (Deferred Sales Model Exemptions)
Regulations 2021*

Section 8 of the *Corporations (Fees) Act 2001* (the Act) provides that the Governor-General may make regulations for the purposes of the prescribed sections of that Act, including prescribing fees for chargeable matters.

The purpose of the *Corporations (Fees) Amendment (Deferred Sales Model Exemptions) Regulations 2021* (the Regulations) is to prescribe a fee that the Australian Securities and Investment Commission (ASIC) can charge to a person who makes an application to ASIC for an exemption from the deferred sales model.

The deferred sales model is set out in new subdivision DA of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001* (the ASIC Act) and commences on 5 October 2021. Broadly, the deferred sales model prohibits the sale of add-on insurance products for four days after a customer has entered into a commitment to acquire the principal product or service.

Subsection 12DY(1) of the ASIC Act provides that ASIC may, by notifiable instrument, exempt an add-on insurance product or a class of add-on insurance products sold by a specified person from the prohibitions set out in the deferred sales model.

The Act provides that an application to ASIC for an exemption, or variation or revoking an exemption under subsection 12DY(1) of the ASIC Act is a chargeable matter (paragraph 4(1)(o)), and further provides that regulations may be made prescribing fees for chargeable matters (section 5). The prescribed fees for a chargeable matter are specified in column 2 in the tables in Schedule 1 and 2 to the *Corporations (Fees) Regulations 2001*.

The Regulations amend the table in Schedule 1 to the *Corporations (Fees) Regulations 2001* prescribing the fee for the chargeable matter set out in paragraph 4(1)(o) of the Act.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

Treasury consulted the public, including industry, about the amendment and has considered submissions. Treasury also consulted ASIC during the development of these Regulations.

Details of the Regulations are set out in [Attachment A](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commenced on the later of the day after they are registered and 5 October 2021.

The Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry was certified as being informed by a process and analysis equivalent to a Regulation Impact Statement for the purposes of the Government decision to implement the deferred sales model. The implementation of the deferred sales model was estimated to increase compliance costs for industry by \$16.46 million per year.

A statement of Compatibility with Human Rights is at [Attachment B](#)

Details of the Corporations (Fees) Amendment (Deferred Sales Model Exemptions) Regulations 2021

Section 1 – Name of the Regulations

This section provides that the name of the Regulations is the *Corporations (Fees) Amendment (Deferred Sales Model Exemptions) Regulations 2021* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commence the later of the day after the instrument is registered on the Federal Register of Legislation, and 5 October 2021.

Section 3 – Authority

The Regulations are made under the *Corporations (Fees) Act 2001* (the Act).

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedules to this instrument will be amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1 – Amendments

Corporations (Fees) Regulations 2001

The table in clause 1 of Schedule 1 to the *Corporations (Fees) Regulations 2001* prescribe the fees for a chargeable matter for the purposes of subregulation 3(1) of those regulations.

Item 1 amends the table to insert new item 124A for applications to ASIC for an exemption or variation or revocation of an exemption, and specifies in column 2 of the table the prescribed fee for this chargeable matter is \$3,487.

ASIC administers fees in accordance with Regulatory Guide 21 *How ASIC charges fees for relief applications*. The methodology for calculating fees is in accordance with the Australian Government Cost Recovery Guidelines.

The prescribed amount of \$3,487 is comparable to other prescribed fees for applications to ASIC for matters involving an exemption or declaration, or related variation of an exemption (for example, items 80 and 124 of the table in Schedule 1).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Corporations (Fees) Amendment (Deferred Sales Model Exemptions) Regulations 2021

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Corporations (Fees) Amendment (Deferred Sales Model Exemptions) Regulations 2021* (the Regulations) is to prescribe a fee that the Australian Securities and Investment Commission (ASIC) can charge to a person who makes an application to ASIC for an exemption from the deferred sales model set out in new subdivision DA of Division 2 of Part 2 of the *Australian Securities and Investments Commission Act 2001* (the ASIC Act).

The Regulations amend the table in Schedule 1 to the *Corporations (Fees) Regulations 2001* prescribing the fee for an application to ASIC for an exemption, or variation or revoking an exemption under subsection 12DY(1) of the ASIC Act.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.