

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Treasurer**

*Australian Securities and Investments Commission Act 2001*  
*Corporations (Fees) Act 2001*

*Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2020 Measures)) Regulations 2020: Deferred sales model for add-on insurance*

Section 251 of the *Australian Securities and Investments Commission Act 2001* provides that the Governor-General may make regulations prescribing matters required or permitted by the Act or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Section 8 of the *Corporations (Fees) Act 2001* 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 *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2020 Measures)) Regulations 2020: Deferred sales model for add on insurance* (the Regulations) is to give effect to recommendation 4.3 of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission) to implement an industry wide deferred sales model for the sale of add-on insurance products. The Government agreed to implement an industry wide deferred sales model in its response to the Financial Services Royal Commission dated 4 February 2019.

The Financial Services Royal Commission received submissions from various stakeholders that:

- add-on insurance products represent poor value for consumers;
- insurers pay more in commissions to intermediaries than they pay out to consumers in claims;
- consumer outcomes are considerably worse in the add-on insurance market than in markets where there is meaningful competition; and
- consumers are at risk of unfair sales practices and adverse outcomes.

The Regulations support Schedule [4.3] to the *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2020 Measures)) Bill 2020: Deferred sales model for add on insurance* (the Bill), which implements an industry wide deferred sales model for the sale of add-on insurance products.

The Bill provides for a four day deferred sales period, during which it is generally an offence to sell or offer a consumer an add-on insurance product. The period begins when the consumer acquires, or enters into a commitment to acquire the principle product or service to which the add-on insurance product relates, and when they have

been provided with the information about the add-on insurance product which has been prescribed by the Australian Securities and Investments Commission (ASIC).

The Bill allows for the regulations to prescribe when the consumer is taken to have entered into a commitment to obtain a principle product or service because of the diversity of add-on insurance products available in the market, and the need to ensure the deferred sales model achieves the intended policy outcome for certain classes of add-on insurance products.

The Regulations prescribe the time of entering into a commitment for those classes of products or services.

The Regulations also amend the *Corporations (Fees) Regulations 2001* to prescribe a fee that ASIC can charge to a person who applies to ASIC for an exemption from the deferred sales model.

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

The *Australian Securities and Investments Commission Act 2001* and *Corporations (Fees) Act 2001* do not specify any conditions that need to be met before the power to make the Regulations are exercised.

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

**Details of the Financial Sector Reform (Hayne Royal Commission Response—  
Protecting Consumers (2020 Measures)) Regulations 2020: Deferred sales model  
for add on insurance**

Schedule [4.3] – Deferred sales model for add-on insurance

*Amendments to the Australian Securities and Investments Commission Act 2001*

Item 1 of the Regulations amends the *Australian Securities and Investments Commission Regulations 2001* to prescribe when a consumer is taken to have entered into a commitment to acquire a particular principle product or service.

For the following types of products or services, the Regulations prescribe that the consumer is taken to have entered into a commitment to acquire the product or service when the consumer is informed in writing that the credit facility is approved:

- a credit card;
- a loan secured by a mortgage, charge or other security interest over residential property in Australia;
- a loan for the purchase of a motor vehicle; and
- a loan for personal, domestic or household purposes.

For the hire of a motor vehicle, the Regulations prescribe that the consumer is taken to have entered into a commitment to acquire the principle product or service (in this case, the hiring of the motor vehicle):

- if the consumer makes a prior reservation for the motor vehicle, when the consumer makes the reservation; or
- if the consumer takes possession of the motor vehicle without making a prior reservation, when the consumer takes possession of the vehicle.

Motor vehicle is defined for the purposes of the Regulations as a motor powered road vehicle including a four wheel drive.

*Amendments to the Corporations (Fees) Regulations 2001*

Item 2 of the Regulations amends the *Corporations (Fees) Regulations 2001* to prescribe a fee of \$3,487 that ASIC can charge for an application by a person to be exempted from the deferred sales model by ASIC.