

EXPOSURE DRAFT



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Corporations Amendment (Litigation Funding) Regulations 2021

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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1 Name

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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1—Amendments

Corporations Regulations 2001

1 Paragraph 7.6.01AB(2)(a)

Repeal the paragraph, substitute:

- (a) maintain, for the duration of the insolvency litigation funding scheme or litigation funding arrangement, adequate practices for:
 - (i) managing any conflict of interest that may arise in relation to activities undertaken by the person, or an agent of the person, in relation to the scheme or arrangement; and
 - (ii) ensuring that a lawyer providing services in relation to the scheme or arrangement does not have or obtain a material financial interest in the person; and

2 At the end of subregulation 7.6.04(1)

Add:

- ; (l) if the financial services licensee provides funds or indemnities as mentioned in paragraph 7.1.04N(3)(e) in relation to a litigation funding scheme mentioned in subregulation 7.1.04N(3)—a condition that:
 - (i) the licensee maintain, for the duration of the scheme, adequate practices for ensuring that a lawyer providing services in relation to the scheme does not have or obtain a material financial interest in the licensee; and
 - (ii) for the duration of the scheme, either no lawyer providing services in relation to the scheme has or obtains a material financial interest in the licensee or, if such a lawyer does have or obtain such an interest, the licensee meets the requirement in subregulation (2A).

3 After subregulation 7.6.04(2)

Insert:

(2A) If:

- (a) a financial services licensee provides funds or indemnities in relation to a litigation funding scheme mentioned in subregulation 7.1.04N(3); and
- (b) a lawyer providing services in relation to the scheme has or obtains a material financial interest in the licensee;

the licensee must, immediately after becoming aware of the lawyer's interest, take action to ensure that the lawyer stops providing such services or relinquishes the interest.