Australian Government
The Treasury

INFORMATION REQUEST

DEFERRED SALES MODEL CLASS EXEMPTIONS

Background

On 10 December 2020, Parliament passed the *Financial Sector Reform (Hayne Royal Commission Response) Bill 2020*, which established an industry-wide deferred sales model for add-on insurance in response to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

The deferred sales model is set out in the *Australian Securities and Investments Commission Act 2001* (ASIC Act). It enables consumers to make informed decisions about add-on insurance product purchases by introducing a four-day deferral period between the sale of the primary product and the sale of the add-on insurance to the consumer. This pause, or 'deferral period', allows and encourages consumers to consider the merits of the insurance offered and to compare it with alternative products. This is intended to reduce the risk of unfair sales and adverse consumer outcomes found by the Royal Commission.

Regulatory framework

Under section 12DX of the ASIC Act, a class of add-on insurance products may be exempted from the deferred sales model through regulations. In keeping with the intent behind the deferral period, exemptions are intended to enable the sale of products where there is reduced risk and high value to the consumer and/or risk of underinsurance.

There are no legislated criteria for class exemptions granted through regulations. All relevant factors may be considered by the Government in exercising this exemptions power. However, given the context and policy aims of the deferred sales model, risk to consumers and consumer outcomes are likely to be key.

The Australian Securities and Investments Commission (ASIC) can also grant exemptions from the deferred sales model to products or product classes sold by a specified person (under section 12DY of the ASIC Act). This power is separate to the section 12DX power, which grants class exemptions for product types regardless of seller.

Currently exempted classes

Treasury held a public consultation from 13 January – 15 February 2021 seeking evidence of any classes of add-on insurance products representing a very high level of consumer value that would not be appropriate to be captured by the deferred sales model.

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The *Australian Securities and Investments Commission Regulations 2001* (ASIC Regulations) were subsequently amended to exempt the following classes of add-on insurance (in regulation 12B) from the deferred sales model for a period of 5 years (commencing on 5 October 2021):

(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.

Invitation to submit evidence

Ahead of these exemptions expiring on 5 October 2026, Treasury is examining whether they should continue, either in whole or in part, as well as whether or not any new class exemptions should be granted. Treasury invites stakeholder submissions on these matters.

For existing class exemptions, Treasury seeks evidence about whether the exempted classes of products should have their exemptions continued or if these should be permitted to lapse. Treasury also invites evidence in relation to any classes of add-on insurance products not currently exempt from the deferred sales model that stakeholders propose should or should not be exempted.

Where applicable, submitters are encouraged to provide quantitative data as part of their evidence.

In particular, Treasury is seeking the following information.

1.   For any class not currently exempted for which a new exemption is sought:

   a. A description and suggested legal definition of the class of add-on insurance product proposed to be exempted. The description should identify the key cover, exclusions and conditions of that class of add-on insurance product.

   b. Any proposed limits on the class and an explanation for limits that exclude/capture similar products.

2.   For any class not currently exempt for which a new exemption is sought, or existing exempt classes that a continued exemption is sought for:

   a. Evidence of consumer value of the class of add-on product, including payout ratio (claims paid to insured party / premium), gross loss ratio, claims acceptance rates; and policy cancellation rates.
   b. Relative value of the class of product compared with like products in the stand-alone market.

    c.   Evidence of unacceptable risk of underinsurance or non-insurance if an exemption is not granted/continued.

    d.   Evidence of consumer understanding of the product, including:

       :   Level of consumer understanding of the class of add-on product

       :   Level of complexity of the class of add-on product

       :   Degree of material difference in terms in individual products within the proposed class.

    e.   Evidence of any points of difference between the class of add-on insurance and similar products that are sold on the stand-alone market, including any differences in remuneration arrangements.

    f.   Evidence of any key non-regulatory changes in the sector that have occurred since 2021 that may support the continuation or addition of the class exemption.

    g.   Whether, and if so, what conditions should be placed on any continued or new exemptions.

    h.   Any other information relevant to the consideration of continuing existing or adding new exemptions.

3.   Where it is asserted that any or all existing exemptions should be allowed to lapse, evidence that demonstrates why the deferred sales model should apply to these classes of add-on insurance, including evidence responsive to the points at 2. above.