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| **EXPOSURE DRAFT** |

National Consumer Credit Protection Amendment (A New Regulatory Framework for the Provision of Consumer Credit) Regulations 2020

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 2020

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 *National Consumer Credit Protection Amendment (A New Regulatory Framework for the Provision of Consumer Credit) Regulations 2020*.

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:  (a) the day after this instrument is registered; and  (b) 1 March 2021. |  |

Note: This table relates only to the provisions of this instrument as originally made.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 *National Consumer Credit Protection Act 2009.*

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

National Consumer Credit Protection Regulations 2010

1 Regulation 25K

Repeal the regulation, substitute:

25K Modification—credit card contracts

(1) For the purposes of paragraph 164(d) of the Act, the provisions to which Part 3‑7 of the Act applies apply in relation to a credit card contract as if the provisions were modified as set out in this regulation.

(2) Part 3‑2E of the Act, and the non‑ADI credit standards made under section 133EA of the Act, have effect as if subsection 133EA(5) (which defines ***non‑ADI credit conduct***) were modified by inserting the following paragraph after paragraph 133EA(5)(a):

“(aa) providing a consumer with a credit card for the purpose of entering a credit contract that is formed or entered by:

(i) the consumer using the credit card to obtain credit from the licensee; or

(ii) the activation by the consumer of the credit card by arrangement with the licensee; or”.

2 Regulations 28HA, 28J and 28LC

Repeal the regulations.

3 Regulation 28LCF (heading)

Before “**credit contracts**”, insert “**small amount**”.

4 Subregulation 28LCF(2)

Before “credit contract” (first occurring), insert “small amount”.

5 Subparagraph 28LCF(2)(b)(ii)

Repeal the subparagraph.

6 Regulation 28N

Repeal the regulation.

7 Subregulation 28RB(7) (definition of *exemption period*)

Omit “2 April 2021”, substitute “28 February 2021”.

8 After paragraph 38(2)(j)

Insert:

(ja) subsection 133EB(1);

(jb) section 133EC;

9 Before item 3.1 of Schedule 3

Insert:

Part 1—Modifications of the Act

3.1AA Scope

The modifications set out in this Part are to be made to the Act.

Note: See regulation 25G.

10 After item 3.33 of Schedule 3

Insert:

3.33A At the end of section 133EA

Add:

Modifications for exempt special purpose funding entities

(6A) This Part has effect as if each reference in:

(a) this Part; or

(b) a definition in this Act, as it applies to references in this Part;

to a licensee were instead a reference to an exempt special purpose funding entity.

Note: See also item 3.47 of Schedule 3 to the *National Consumer Credit Protection Regulations 2010*.

11 At the end of Schedule 3

Add:

Part 2—Modifications of instruments

3.46 Scope

Each instrument that is specified in this Part is modified as set out in the applicable items of this Part.

Note: See regulation 25G.

National Consumer Credit Protection (Non‑ADI Credit Standards) Determination 2020

3.47 At the end of the instrument

Add:

Part 4—Modifications

14 Modifications for exempt special purpose funding entities

This instrument has effect as if each reference in:

(a) this instrument; or

(b) a definition in the Act, as it applies to references in this instrument;

to a licensee were instead a reference to an exempt special purpose funding entity.

Note: See also item 3.33A of Schedule 3 to the *National Consumer Credit Protection Regulations 2010*.