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Review of Sunsetting Insurance Regulations

Dear Mr Gaudry,

The Council of Australian Life Insurers (CALI) was recently formed to support the Australian life insurance industry and its members to drive positive outcomes for customers, insurers and their partners through dedicated representation, engagement, and advocacy.

CALI appreciates the opportunity to comment on the response to Treasury's review of sunsetting insurance instruments including the:

- Insurance Acquisitions and Takeovers (Notices) Regulations 1992
- Insurance Acquisitions and Takeovers Act 1991 – Decision-Making Principles IDM 1/1992
- Life Insurance Regulations 1995
- Insurance Regulations 2002.

Overall, the life insurance industry believes the instruments are operating effectively and support the proposal to remake most of the instruments. We would like to make the following specific comments in relation to the exposure drafts.

Proposed amendments to s 210 Life Insurance Act 1995

We note that Treasury has invited feedback in relation to the following question:

*Non-forfeiture of life insurance policies in certain cases of non-payment of premiums
5. Amendments to section 210 of the Life Insurance Act 1995 are proposed to incorporate into the Life Insurance Act 1995 the modifications to section 210 in Schedule 2 of the Life Insurance Regulations 1995. Do you consider that this increases the clarity and transparency of the provision without changing its intended operation?*

In our view, the existing modifications to s 210 of the Life Insurance Act (LIA) contained within Schedule 2 of the Life Insurance Regulations 1995 clearly and adequately outline the circumstances in which s 210 is taken to apply to the original policy and relevant variations. However, we do not believe this has been clearly adopted within sub-ss 210(6)-(9) and consideration could be given to simplifying the drafting in these subsections.

Furthermore, in our view, a more significant policy issue is the clarity required to confirm the commonly held industry view that risk life policies should be cancelled under s 59 of the Insurance Contracts Act (ICA) and that greater clarity is required in relation to the scope and application of s 210 of the LIA, particularly in relation to which policies of insurance it encompasses. We consider that clarity that cancellation of risk life insurance is governed by s 59 and not section 210 of the LIA should be prioritised over the current proposed amendments by way of the subsections identified above.

Proposed amendments to s 76A Life Insurance Act 1995

It appears that much of the wording in the current ss 76A(3) and 76A(4) is incorporated into newly-proposed ss 76A(3), 76A(3A) and 76A(4).

The term 'records' appears to be used interchangeably with the term 'financial records' throughout s 76A and this may cause confusion as to how the provision is to be interpreted. For example, the Explanatory Memorandum currently reads:

Where a life company has given APRA notice of the address where its records are kept and the company moves the financial records to a new address, the company must notify APRA of this in accordance with the requirements for giving notice under new section 8A of the Life Insurance Act and within 28 days after the date on which the records were moved to the new address. This requirement applies to a life company that is registered under the Life Insurance Act.

Use of the word 'the' prior to the term 'financial records' in the first sentence suggests that it potentially marries with the earlier generalised reference to 'its records'. In fact, it appears that the wording intends to provide guidance that where a life company has advised APRA of the address for where it holds general records and then the life company specifically moves the location of (only) its financial records, further and additional notice to APRA ought be given. In that sense, the wording of the Explanatory Memorandum would be more appropriate if it read:

Where a life company has given APRA notice of the address where its records are kept and the company moves ~~the~~ its financial records to a new address, the company must notify APRA of this in accordance with the requirements for giving notice under new section 8A of the Life Insurance Act and within 28 days after the date on which the records were moved to the new address. This requirement applies to a life company that is registered under the Life Insurance Act.

Other regulatory amendments

In addition to the changes included in these exposure drafts, the life insurance industry supports a number of other specific changes to modernise life insurance legislation which were raised in response to Treasury's previous consultation on Modernising Business Communications including:

- Repeal endorsement requirements set out in s 200(2)(b) and s 213 of the LIA to reflect current practices.
- Repeal Part 10, Division 7 of the LIA. The widespread use of etechnology across all forms of business activity has rendered the paper-based thrust of Part 10, Division 7 anachronistic. We note this is

addressed in the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Bill 2023 which is currently before the Senate and look forward the passage of this legislation.

- Repeal s 229 of the LIA to reflect the electronic completion of applications.

We would welcome Treasury's consideration of these as well as the issues raised in this submission in relation to the sunseting insurance instruments.

If you would like to discuss our submission further please contact Michael Johnston at michael.johnston@cali.org.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Christine Cupitt', followed by a long horizontal line extending to the right.

Christine Cupitt