

17 November 2020

Law Design Office
The Treasury
Langton Crescent
Parkes ACT 2600

By email: miscamendments@treasury.gov.au

Dear Law Design Office

Miscellaneous amendments to Treasury portfolio laws 2020

The Financial Services Council¹ (**FSC**) thanks Treasury for the opportunity to comment on the draft legislation and Explanatory Memorandum (EM) named Miscellaneous amendments to Treasury portfolio laws 2020.

This submission is limited to the proposed changes to the *Life Insurance Act 1995*. Our comments on these changes are attached in the Appendix.

Please be advised that the FSC intends to make a separate submission covering other aspects of proposed amendments to the Treasury portfolio laws but has been delayed in completing this submission. We intend to submit on this issue in the coming days.

I would be happy to discuss this submission further on anguyen@fsc.org.au.

Yours sincerely,

Aidan Nguyen
Policy Manager, Life Insurance

¹The FSC is a leading peak body which sets mandatory Standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services. Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks and licensed trustee companies. Our Supporting Members represent the professional services firms such as ICT, consulting, accounting, legal, recruitment, actuarial and research houses.

The financial services industry is responsible for investing \$3 trillion on behalf of more than 15.6 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange, and is the fourth largest pool of managed funds in the world.

ATTACHMENT: DETAILED FSC COMMENTS

LIFE INSURANCE ACT CHANGES

Section 200 Assignment of policy

1. We are supportive of the principle of the proposed change to section 200(2)(b) to permit record keeping through electronic means.
2. **We submit however that section 200(2)(b) should be repealed** so that red tape can be reduced, and uncertainty removed. We consider the requirement, in this modern age, to “endorse” a document antiquated and no longer suited to the practice of the later 20th and 21st centuries, where life insurers maintain electronic systems and records. Prior to life insurers keeping very sound electronic records, it was important safeguard for policy owners to keep the original insurance policy document, but this is not the case in the 21st century. Electronic storage is the norm and ubiquitous, so that the requirement for each party to mark or “endorse” a policy is out-dated and offers no tangible benefit.
3. An assignment of a policy would only still occur by completing the many other robust requirements of section 200 (which includes the section 200(2)(d) requirement for the assignment to be registered in a register of assignments kept by the life company).

Section 211(1)(b) and Section 212(1)(b) – Probate or administration not necessary in certain cases

4. We support the increase of the threshold for payments without probate (or administration). We consider that a new threshold of \$100,000 will assist in efficient payments without probate (or administration).
5. **We recommend a higher threshold (of say \$200,000)**, given typical sums insured. Providing for a higher threshold reduces the burden on smaller estates seeking to finalise the estate promptly. Also, an indexation factor should be provided for to ensure the limit keeps pace with inflation (for convenience and simplicity, with increases occurring in rounded amounts only, e.g., \$10,000 increase once inflation results in the hard-coded limit increasing by at least \$10,000).
6. These changes benefit consumers seeking to “cut-through” the complexity of succession law requirements for small sum insureds.

Section 213 – Death of policy owner who is not the life insured

7. Section 213 of the Life Act allows life companies to make a person (typically that would be the life insured) a policy owner, if the original policy owner has died and the person satisfies the life company that the person would be entitled to the policy proceeds under the policy owner’s will or probate rules.
8. We support the increase of the threshold for payments without probate or administration. We consider that the proposed threshold of \$50,000 will assist in reducing unnecessary administration costs for persons (typically life insureds) seeking the policy to record that person as the new owner of the policy.

9. **We submit a higher threshold (of say \$100,000) is more appropriate**, given typical life insurance sums insured. Providing for a slightly higher threshold reduces the burden on facilitating policy ownership changes on the death of the policyholder for these smaller sum insureds. Also, an indexation factor should be provided for to ensure the limit keeps pace with inflation (for convenience and simplicity, with increases occurring in rounded amounts only, e.g., \$10,000 increase once inflation results in the hard-coded limit increasing by at least \$10,000).
10. These changes benefit consumers seeking to “cut-through” the complexity of succession law requirements for small sum insureds.
11. For the reasons set out in our submission above in respect of assignments of policies (section 200), we think that the reference in section 213(2) that the life company “may **endorse** on the policy”, and the reference in section 213(3) that the company “may **endorse** the policy”, is superfluous, antiquated, redundant and out-dated in the electronic age of the later 20th and 21st century. We submit it would be more appropriate that section 213(2) and (3) remove the reference to “endorse” (typically associated with a paper age) and instead state to the effect of (changes marked):

213(2)~~the company may endorse on the policy~~ **in respect of the policy, record in its register of policies, a declaration that the applicant has so satisfied the company and is the owner of the policy.**

213(3) ~~The company may endorse the policy~~ **in respect of the policy, record in its register of policies, the declaration referred to in subsection (2) without requiring the production of any probate or letters of administration.**