

**Australian Securities and Investments Commission
National Credit Code - Subsection 6(14) – Revocation and Exclusion**

Enabling Provision

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under subsection 6(14) of the National Credit Code (the *Code*).

Note: The Code is found in Schedule 1 to the *National Consumer Credit Protection Act 2009* and has effect as a law of the Commonwealth.

Title

2. This instrument is ASIC Instrument [22-0834].

Commencement

3. This instrument commences on the day it is signed.

Revocation

4. ASIC Instrument [10-1266] is revoked.

Exclusion

5. ASIC excludes, from the application of the Code:
 - (a) a provision of credit by Premium Funding Pty Ltd ACN 057 306 171 (*Premium Funding*) that is specified in paragraph 6; and
 - (b) a provision of credit by an AMAL Entity that is made as a result of the legal assignment by Premium Funding to the AMAL Entity of rights in relation to a provision of credit referred to in subparagraph (a).
6. The provision of credit is made by Premium Funding to a person (*debtor*), repayable by way of instalments, for the purpose of payment to an insurer of an insurance premium in relation to a contract of insurance (the *insurance policy*) between the insurer and the debtor where:
 - (a) under the terms of the contract (the *premium funding contract*) under which the credit is provided, none of Premium Funding nor an AMAL Entity to whom Premium Funding has legally assigned any of its rights may cancel the insurance policy unless all of the following are satisfied:
 - (i) the debtor has failed to make one or more instalment payments (each an *outstanding payment*) under the premium funding contract; and

- (ii) if the contract was entered into before the date of this instrument in accordance with ASIC Instrument [10-1266]:
 - (A) the person seeking to cancel the policy has notified the debtor in writing that the insurance policy may be cancelled unless the outstanding payments are made within 7 days of receipt of the notice; and
 - (B) at the time of the cancellation of the insurance policy (being a time at least 7 days after the receipt of the notice referred to in sub-subparagraph (A)), the outstanding payments have not been received by Premium Funding or an AMAL Entity to whom Premium Funding has legally assigned any of its rights; or
- (iii) if the contract was entered into on or after the date of this instrument:
 - (A) the person seeking to cancel the policy has notified the debtor in writing that the insurance policy may be cancelled unless the outstanding payments are made within 14 days of receipt of the notice; and
 - (B) at the time of the cancellation of the insurance policy (being a time at least 14 days after the receipt of the notice referred to in sub-subparagraph (ii)), the outstanding payments have not been received by Premium Funding or an AMAL Entity to whom Premium Funding has legally assigned any of its rights;
- (b) the debtor may cancel the insurance policy without the consent of Premium Funding or an AMAL Entity to whom Premium Funding has legally assigned any of its rights; and
- (c) if the insurance policy is cancelled, the debtor would have no liability to make further payments under the premium funding contract.

Where exclusion applies

- 7. The exclusion in paragraph 5 applies for so long as each of the following is satisfied:
 - (a) the *credit provider* under the premium funding contract is:
 - (i) Premium Funding; or
 - (ii) where Premium Funding has legally assigned some but not all of its rights under the contract to an AMAL Entity – both Premium Funding and the AMAL Entity; or

- (iii) where Premium Funding has legally assigned all of its rights under the contract to an AMAL Entity – both Premium Funding and the AMAL Entity.
- (b) the credit provider referred to in subparagraph (a) is a member of the AFCA scheme; and
- (c) the credit provider referred to in subparagraph (a) has an internal dispute resolution procedure that:
 - (i) complies with the standards and requirements specified in ASIC Corporations, Credit and Superannuation (Internal Dispute Resolution) Instrument 2020/98 or any instrument that replaces that instrument; and
 - (ii) covers disputes in relation to the premium funding contract;
- (d) the credit provider referred to in subparagraph (a) maintains adequate arrangements for compensating persons for loss or damage suffered because of a breach of a contract under which Premium Funding or the relevant AMAL Entity (as applicable) provides credit in relation to insurance policies or a failure to comply with the terms of this instrument that satisfy any requirements prescribed for the purposes of paragraph 48(2)(a) of the *National Consumer Credit Protection Act 2009* (the *National Credit Act*) as if:
 - (i) the credit provider were a licensee; and
 - (ii) conduct by the credit provider and its representatives in relation to a provision of credit covered by paragraph 5 were a credit activity;
- (e) the credit provider referred to in subparagraph (a) has adequate arrangements in place to ensure cooperation with AFCA in resolving any complaint under the AFCA scheme to which the credit provider is a party, including by:
 - (i) giving reasonable assistance to AFCA in resolving the complaint;
 - (ii) identifying, locating and providing to AFCA any documents and information that AFCA reasonably requires for the purposes of resolving the complaint; and
 - (iii) giving effect to any determination made by AFCA in relation to the complaint; and
- (f) the credit provider referred to in subparagraph (a) has adequate arrangements in place to ensure that if the debtor notifies the credit provider that they are experiencing financial hardship, the credit provider:

- (i) will consider providing appropriate assistance to the debtor in ways including, but not limited to:
 - (A) in the case where the debtor is a strata corporation, assisting the debtor to prepare a special levy;
 - (B) a repayment moratorium; and
 - (C) assisting the debtor to contact a financial counselling agency; and
- (ii) will not exercise a right to cancel the contract that is referred to in subparagraph 6(a) until it has complied with subparagraph 7(f)(i).

Interpretation

8. In this instrument:

AFCA has the meaning given by section 761A of the *Corporations Act 2001*.

AFCA Scheme has the meaning given by subsection 5(1) of the National Credit Act.

AMAL Entity means AMAL Trustees Pty Limited (ABN 98 609 737 064) or a related body corporate (as that term is defined in the Corporations Act) of AMAL Trustees Pty Limited (ABN 98 609 737 064).

credit activity has the same meaning as in items 1 and 2 of the table in subsection 6(1) of the National Credit Act.

credit provider has the meaning given by section 204 of the Code and includes a person to whom the rights of a credit provider under a contract are assigned or pass by law.

financial counselling agency has the same meaning as in regulation 20(5) of the National Consumer Credit Protection Regulations 2010.

financial hardship means a situation where a debtor considers itself unable to meet its obligations under the premium funding contract.

licensee has the same meaning as in subsection 5(1) of the National Credit Act.

repayment moratorium means a suspension in repayments under the premium funding contract for an agreed period of time.

representative has the same meaning as in paragraph (b) of the definition of that term in subsection 5(1) of the National Credit Act.

Dated this 29th day of September 2022

A handwritten signature in black ink, appearing to read 'Samuel Wilson', with a stylized flourish at the end.

Signed by Samuel Wilson
as a delegate of the Australian Securities and Investments Commission