

**Employsure Mutual Limited**  
**Employsure Protect - Target Market Determination**

**Important Information**

The purpose of this target market determination (**TMD**) is to describe the class of consumers for which Employsure Protect has been designed, having regard to the likely needs, objectives and financial situation of that class of consumers. This TMD is not intended to provide any financial product advice, and does not consider any individual consumer's personal needs, objectives or financial situation. This TMD does not replace existing terms and conditions in the Employsure Protect Product Disclosure Statement (**PDS**). Please refer to the PDS before making a decision about the product.

**Effective date**

5 October 2021.

**Product Disclosure Statement to which this TMD applies**

This TMD applies to the discretionary protection described in the Employsure Protect Product Disclosure Statement (document numbers 010421AU/310321NZ) that has been issued by Employsure Mutual Limited (**the Mutual**). The PDS is issued by the Mutual and distributed on its behalf by Employsure Limited and Employsure Pty Ltd Authorised Representative 001274577 of Regis Mutual Management Pty Ltd (**Regis**) AFS Licensee 338156 which has entered into an intermediary authorisation agreement with the Mutual.

Employsure Protect is a financial product issued by the Mutual for the sole benefit of its members who are both the owners and customers of the Mutual. The Mutual and Employsure Protect were created exclusively for clients of Employsure Pty Ltd in Australia and Employsure Limited in New Zealand (jointly **Employsure**). Employsure Protect is not available to entities that are not clients of Employsure.

Employsure provides employment relations and health and safety advice and consultancy for small to medium sized businesses. The Employsure service is not a financial product and thus Employsure is not subject to the Design and Distribution Obligations, nor required to undertake a TMD. However, for the Mutual to comply with its obligations to undertake and publish a TMD, it is necessary to have regard to the client selection criteria applied by Employsure as the target market is framed by Employsure's client base in Australia and New Zealand.

**The class of consumers that fall within the target market**

The employment relations and health and safety advice and consultancy provided by Employsure is available to small to medium sized businesses that meet the following criteria:

- Are an 'employer' within the meaning of the Fair Work Act 2009 (Cth) in Australia or the Employment Relations Act 2000 in New Zealand,
- Currently employ or is expecting to employ at least 1 or more employees or engage 1 or more independent contractors,
- For businesses located in Australia, the employee/s must work in Australia, and
- For businesses located in New Zealand, the employee/s must work in New Zealand.

It follows that all businesses meeting the above criteria who become clients of EmploySURE are eligible to join the Mutual as members and purchase EmploySURE Protect (subject to product or industry exclusions).

### **Likely needs, objectives and financial situation**

All clients of EmploySURE have an exposure to the risk of employment relations claims by employees as well as an exposure to health and safety prosecution for breaches of the relevant health and safety legislation. The claims can range from a few thousand dollars to hundreds of thousands of dollars. The majority of EmploySURE clients are small businesses and the financial exposure to employment relations and health and safety risks is difficult to manage within the business. Traditional risk transfer mechanisms, such as insurance, are limited and expensive. EmploySURE Protect is designed to provide an affordable alternative with broad cover, no deductible and meaningful limits. Consumers within the target market will be in a financial position to pay for EmploySURE's services and the required contribution payable to EmploySURE Mutual to gain access to protection through EmploySURE Protect.

### **Class of consumers for whom EmploySURE Protect has not been designed**

EmploySURE Protect is not designed for consumers who do not meet the eligibility criteria, including consumers who:

- operate a business however do not engage any employees or independent contractors,
- are individuals who do not operate a business,
- businesses located outside of Australia and New Zealand,  
businesses who operate in an industry which is excluded from protection pursuant to the Mutual's excess of loss insurer.

### **Product description and key attributes**

The financial product issued by the Mutual is discretionary protection offered as EmploySURE Protect. Full details of the product are included in the PDS which is provided to all members and potential members of the Mutual.

There are two types of protection available to members of the Mutual, Employment Relations (Section A) and Health and Safety Statutory Liability (Section B).

Section A provides discretionary protection to members (and their declared subsidiaries) for losses resulting from actions brought against them in the Fair Work Commission (Australia) and other employment claims. Protection is available where the claim is made against the member and notified to the Mutual during the protection period. When a claim for protection is granted, the benefit provided includes legal costs and expenses incurred in defending the member.

Section B provides discretionary protection to members (and its directors and officers acting in the course of their duties) for statutory liabilities arising from a health and safety breach. Protection is available where the claim is made against the member and notified to the Mutual during the protection period. When a claim for protection is granted, the benefit provided includes legal costs and expenses incurred in defending the member or its directors or officers and, where permitted by law, may include penalties or reparation costs.

Both sections A and B provide limits of \$400,000 per claim and up to \$2,000,000 in any protection period (12 months). There is no deductible.

### **Consistency between target market and Employisure Protect**

Employisure Protect provides broad cover and generous limits to members at very affordable prices (average less than \$1,000 per protection period). This enables members to economically transfer large financial risk exposures thereby improving the sustainability of their business.

Prior to the establishment of the Mutual and Employisure Protect, Employisure had an arrangement with a commercial insurer that provided similar cover for Employisure's clients. The cover was widely taken up, demonstrating a strong demand for the product. Through establishment of the Mutual, substantially increased limits and expansion of cover were able to be offered to members whilst maintaining price levels, which have not increased in three years.

The volume and value of claims processed by the Mutual is strong evidence of the value of the product to members. In 2020 more than 1,500 claims were processed with claims costs exceeding \$8 million. The Mutual is run for the benefit of members on a not-for-profit basis which ensures that the price of the product is maintained as close as possible to cost. The success of the Mutual in being able to maintain broad cover, generous limits and economic pricing is predicated on the strong risk management of employment relations and health and safety practices which is provided through the core services delivered by Employisure. As a group, Employisure's clients should exhibit a superior risk profile, and therefore membership of the Mutual is limited to Employisure's clients. For these reasons, the product is likely to be consistent with the likely objectives, financial situation and needs of the class of consumers within the target market. This is based on an evaluation of the key terms, features and attributes of Employisure Protect and our view that these are consistent with the identified target market.

### **Marketing and Distribution**

The Mutual has appointed Regis, as AFS Licensee, to manage the Mutual and entered into an intermediary authorisation which allows the AFS Licensee and its authorised representative, Employisure, to advise on and arrange for the issue of Employisure Protect. Employisure Protect is thus only offered to clients and potential clients of Employisure, however there is no requirement to take out protection. Employisure clients can select whether to opt for no protection, protection for Employment Relations (Section A) only or Health and Safety Statutory Liability (Section B) only, or for both classes.

The Mutual utilises excess of loss insurance to cap liabilities for claims and the insurer imposes some restrictions on certain industries which it will not accept. The Mutual imposes the same restrictions on Employisure and thus not all clients of Employisure are eligible for protection.

Employisure offers its clients one-year to five-year service contracts. Membership of the Mutual and protection is issued for annual 12-month contracts and, where taken out in conjunction with a contract up to five years with Employisure, the annual protection with the Mutual will automatically be offered for renewal. Members can opt out of renewal and in addition have the option to cancel protection at any time by giving 30 days' notice.

Notwithstanding the foregoing, the Mutual reviews performance annually and in the event of claims frequency or systemic issues, may decline to renew protection where this is not in the best interests of the membership.

### **TMD Reviews**

The amount and values of claims accepted, and the number of claims declined are reviewed quarterly by the Board and as part of the annual review. This enables the protection to be evaluated with consideration of scope of cover, limits, and price to be adjusted if necessary, so that the product continues to meet the needs of the membership.

The first review of the TMD will occur within 12 months from the date of this TMD. Subsequent reviews will occur at least every three years after the end of the previous review.

Review triggers that could reasonably suggest the TMD is no longer appropriate would include:

- changes in legislation to reduce or limit the availability of protection or limit the liability of employers for employment relations or health and safety liabilities
- sudden and unexpected change in claims volume and values
- a material change in the design or distribution of the product, including a material change to the PDS
- low take-up of the protection
- high levels of complaints about the protection and/or distribution
- any significant dealings that are inconsistent with the TMD

### **Reporting and monitoring this TMD**

The sales and distribution process are subject to a high level of governance by Employisure and the AFS Licensee. On a monthly basis, Employisure will provide information to the AFS Licensee about complaints regarding Employisure Protect. Information will include the volume of complaints, subject matter and action taken to resolve the complaints. The Mutual and Regis will closely monitor the level of complaints about the product and distribution as well as rectification action undertaken and will intervene if necessary.

Members can directly contact the AFS Licensee, Regis, or any director of the Mutual. The AFS Licensee is a member of the Australian Financial Complaints Authority.

Dealings of this product outside of the TMD will be investigated and reported as soon as practicable within 10 business days. Any feedback, regulatory orders or directions received from a regulator such as ASIC or AFCA in respect of this product will be investigated and reported to the Board as soon as practicable within 10 business days.