

Insurance Acquisitions and Takeovers Regulations 1997 No. 236

EXPLANATORY STATEMENT

STATUTORY RULES 1997 No. 236

Issued by the authority of the Assistant Treasurer

Insurance Acquisitions and Takeovers Act 1991

Insurance Acquisitions and Takeovers Regulations

The *Insurance Acquisitions and Takeovers Act 1991* (the Act) provides for the compulsory notification of proposals to acquire interests in, Australian registered insurance and related companies. The objective of the Act is to protect the public interest by: ensuring that the affairs of Australian registered insurance companies are conducted in a prudential manner; preventing unsuitable persons from being in a position of influence over Australian insurance companies; and preventing undue concentration in the insurance industry.

Section 82 of the Act provides that the Governor-General may make Regulations for the purposes of the Act.

Section 75 of the Act provides for secrecy in respect of information acquired for purposes of the Act. *The Financial Laws Amendment Act 1997*, which commenced on 30 June 1997, amended Section 75 such that information may be disclosed to prescribed financial sector supervisory agencies, law enforcement agencies and overseas financial sector supervisory agencies.

Three regulations have been inserted into what is cited as the Insurance Acquisitions and Takeovers Regulations. These regulations prescribe financial sector supervisory agencies, law enforcement agencies and overseas financial sector supervisory agencies to whom a compliance officer, pursuant to Section 75 of the Act, may disclose protected information or documents acquired in, the course of performing his or her duties.

Section 75 and the regulations are aimed at facilitating the ability of the Insurance and Superannuation Commission to act quickly to exchange information to prevent and/or manage a crisis situation within financial conglomerates.

The regulations are described in detail in the attachment.

ATTACHMENT

Regulation 1 - Citation

Regulation 1 states that these regulations may be cited as the Insurance Acquisitions and Takeovers Regulations, and includes a note that these regulations commence on gazettal.

Regulation 2 - Financial sector supervisory agency

Section 75 of the Act generally prohibits a compliance officer from disclosing protected information or producing protected documents, other than for the purposes of the Act or any other Act administered by the Insurance and Superannuation Commissioner, that have been acquired by the compliance officer in the course of performing his or her duties as a compliance officer.

Certain exceptions to this general rule are provided for in section 75. Paragraph 75(4)(c) provides that protected information may be disclosed, or protected documents produced, to a financial sector supervisory agency for the purposes of the performance of any of the agency's functions or the exercise of any of its powers.

'Financial sector supervisory agency' is defined in subsection 75(1) of the Act as meaning 'a person or body declared by the regulations to be a financial sector supervisory agency for the purposes of this section'.

This regulation prescribes the financial sector supervisory agencies for the purposes of subsection 75(1) of the Act.

Regulation 3 - Law enforcement agency

Section 75 of the Act generally prohibits a compliance officer from disclosing protected information or producing protected documents, other than for the purposes of the Act or any other Act administered by the Insurance and Superannuation Commissioner, that have been acquired by the compliance officer. in, the course of performing his or her duties as a compliance officer.

Certain exceptions to this general rule are provided for in section 75. Paragraph 75(5)(a) and subsection 75(6) provide that protected information may be disclosed, or protected documents produced, to a law enforcement agency for the purposes of the performance by the agency of its functions in relation to an offence or alleged offence against a law of the Commonwealth, of a State or of a Territory.

'Law enforcement agency' is defined in subsection 75(1) of the Act as meaning 'a person or body declared by the regulations to be a law enforcement agency for the purposes of this section'.

This regulation prescribes the law enforcement agencies for the purposes of subsection 75(1) of the Act.

Regulation 4 - Overseas financial sector supervisory agency

Section 75 of the Act generally prohibits a compliance officer from disclosing protected information or producing protected documents, other than for the purposes of the Act or any other Act administered by the Insurance and Superannuation Commissioner, that have been acquired by the compliance officer in the course of performing his or her duties as a compliance officer.

Certain exceptions to this general rule are provided for in section 75. Paragraph 75(4)(d) provides that protected information may be disclosed, or protected documents produced, to an overseas financial sector supervisory agency for the purposes of the performance of any of the agency's functions or the exercise of any of its powers.

'Overseas financial sector supervisory agency' is defined in subsection 75(1) of the Act as meaning 'a person or body declared by the regulations to be an overseas financial sector supervisory agency for the purposes of this section'.

This regulation prescribes the overseas financial sector supervisory agencies for the purposes of subsection 75(1) of the Act.