

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 311

Issued by authority of the Assistant Treasurer

Life Insurance Act 1995

Life Insurance Amendment Regulation 2012 (No. 1)

Section 253 of the *Life Insurance Act 1995* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Regulation amends the *Life Insurance Regulations 1995* to implement a commitment by Australia to allow New Zealand life insurance companies to seek approval to operate in Australia as a branch.

The *Life Insurance Act 1995* allows foreign corporations that are authorised to conduct life insurance business in an overseas jurisdiction to apply for registration to operate in Australia as a branch. Such a corporation is known as an eligible foreign life insurance company. At present, the *Life Insurance Regulations 1995* make access to the Australian market conditional on the applicant being incorporated and authorised to conduct life insurance business in the United States.

An eligible foreign life insurance company for the purposes of paragraph 16ZD(1)(e) of the *Life Insurance Act 1995* is defined in regulation 2B.01 of the *Life Insurance Regulations 1995*. The Regulation amends this regulation to include body corporates that are incorporated and authorised to carry on life insurance business in New Zealand.

The Protocol on Investment was tabled with the Joint Standing Committee on Treaties and considered at a hearing of the Committee. The Joint Standing Committee on Treaties recommended that binding treaty action be taken.

The National Interest Analysis provided to the Joint Standing Committee outlines the extensive consultation process undertaken as part of the negotiations.

Australia has worked closely with New Zealand to ensure implementation is consistent with the agreed Protocol on Investment.

The Regulation will commence on a day notified by the Minister in an instrument, following the agreement between Australia and New Zealand of a start date for the Protocol on Investment.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Life Insurance Amendment Regulation 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Regulation makes amendments to the *Life Insurance Regulations 1995* to implement a commitment by Australia to allow New Zealand life insurance companies to seek approval to operate in Australia as a branch.

The Regulation involves a minor amendment to the *Life Insurance Regulations 1995* to include body corporates that are incorporated and authorised to carry on life insurance business in New Zealand as eligible foreign life insurance companies. This would provide New Zealand life insurance companies with equivalent treatment to United States companies.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.