

## EXPLANATORY STATEMENT

### Issued by the Authority of the Minister for Finance

*Public Governance, Performance and Accountability Act 2013*  
*Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014*

*Public Governance, Performance and Accountability Legislation Amendment (RBA and Other Measures) Rule 2014*

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) sets out a framework for regulating resource management by the Commonwealth and relevant entities. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the Act.

The *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014* (CTP Act) amended 242 Acts across the Commonwealth to support the implementation of the PGPA Act and its related rules and instruments. Item 6 of Schedule 14 of the CTP Act provides that the Finance Minister may, by legislative instrument, make rules prescribing matters required or permitted by the CTP Act to be prescribed by the rules, or necessary or convenient to be prescribed for carrying out or giving effect to the CTP Act and the PGPA Act.

The *Public Governance, Performance and Accountability Legislation Amendment (RBA and Other Measures) Rule 2014* (RBA and Other Measures Amendment Rule) is being made to amend the rules instruments made under the PGPA Act and the CTP Act. These rules instruments are the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) and the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014* (CTP Rule).

The RBA and Other Measures Amendment Rule contains provisions that:

- provide for the continuation of disclosure of interest arrangements in the CTP Rule, that were in place for the Reserve Bank of Australia under the *Reserve Bank Act 1959 Act* and *Commonwealth Authorities and Companies Act* (CAC Act) prior to the commencement of the PGPA legislative framework;
- provide a mechanism for the preparation of financial statements should section 17A of the *Public Governance, Performance and Accountability Rule 2014* require financial statements to be prepared for a Commonwealth entity which has been abolished before the financial reporting rule is settled;
- repeal a subparagraph of the PGPA Rule to align the effect of the provision with the initial policy intention not to change requirements for modification of terms and conditions of amounts payable to the Commonwealth from what was imposed under the *Financial Management and Accountability Act 1997* (FMA Act); and
- correct a drafting error in the PGPA Rule in relation to the listing of the Seafarers Safety, Rehabilitation and Compensation Authority.

Details of the RBA and Other Measures Amendment Rule are set out at [Attachment A](#). A statement of compatibility with human rights is at [Attachment B](#).

The RBA and Other Measures Amendment Rule is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

### **Consultation**

The Department of Finance (Finance) consulted stakeholders from across the Commonwealth in the development of the PGPA Rule. A project board chaired by Finance oversaw the development process and five steering committees were constituted to work on specific subjects under the framework. Membership of the steering committees was drawn from a wide range of Commonwealth entities and Commonwealth companies. Consultation was also undertaken with key stakeholders in regional and remote communities and in Sydney, Melbourne and Adelaide.

Development of the CTP Rule has been closely connected with the process of the development of the CTP Act, which has required consultation with all Commonwealth entities and Commonwealth companies subject to enabling legislation to ensure understanding of the operation of the legislation and how it impacts on the operation of their organisation.

The commencement of substantive provisions of the PGPA Act and associated legislation was accompanied by an extensive programme of training and guidance to assist entities to comply with the new framework. Feedback from entities during this initial implementation process has led to the development of further legislative amendments with the Office of Parliamentary Counsel. The advice of the Australian Government Solicitor has also been sought.

**Details of the *Public Governance, Performance and Accountability Legislation Amendment (RBA and Other Measures) Rule 2014***

**Section 1—Name of instrument**

This section provides that the title of the instrument is the *Public Governance, Performance and Accountability Legislation Amendment (RBA and Other Measures) Rule 2014* (RBA and Other Measures Amendment Rule).

**Section 2—Commencement**

This section provides that the instrument commences on the day after it is registered.

**Section 3—Authority**

This section states that the instrument is made under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014* (CTP Act).

**Section 4—Schedules**

This section provides that each legislative instrument that is specified in a Schedule to this Rule is amended or repealed as set out, and that any other item in has effect according to its terms.

**Schedule 1—Amendments**

***Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014* (CTP Rule)**

**Item 1 – at the end of the rule**

This inserts at the end of Division 1 of Part 2, a new section 9 to provide for the application of disclosure of interests for members of the Reserve Bank Board and the Payments System Board. The item has the effect that the following sections 7B and 7C apply from a reporting period that commences on or after 1 July 2014.

**Section 7B**

Section 7B sets the disclosure of interest requirements for members of the Reserve Bank Board in relation to matters being considered by the Board involving monetary policy and financial system stability. The arrangements allow for the Board's role in relation to these matters. These arrangements are consistent with the former arrangements under the RBA Act and the CAC Act class order issued by previous Treasurers.

## **Section 7C**

This section sets the disclosure of interest arrangements for the Reserve Bank Board and the Payments System Board in relation matters being considered by the Board, other than monetary policy and financial system stability. These arrangements are consistent with the former arrangements under the RBA Act and the CAC Act class order issued by previous Treasurers.

This item also inserts, at the end of the CTP Rule, a new section 10 which will apply if section 17A of the PGPA Rule requires financial statements to be prepared for a Commonwealth entity which has been abolished. The Rule requires the statements to be prepared in the same way that the annual financial statements for the entity were required by the FMA Act or CAC Act for the previous reporting period and that the statements include the same matters that were by the FMA Act or CAC Act for the previous reporting period.

### ***Public Governance, Performance and Accountability Rule 2014 (PGPA Rule)***

#### **Item 2 – Subparagraph 24(1)(a)(ii)**

Item 2 repeals this subparagraph. When section 24 of the PGPA Rule was developed, there was no intention to change the requirements imposed on entities in relation to the modification of terms and conditions of amounts owing to the Commonwealth from those that were previously imposed through the FMA Act. Rather, the provision sought to recast requirements of the FMA Act to continue to operate under the PGPA Act framework.

However, subparagraph 24(1)(a)(ii) has been found to extend the scope of the requirements from that required under the FMA Act. Controls on this area of the resource management framework are maintained through the *Public Governance, Performance and Accountability (Finance Minister to Accountable Authorities of Non-Corporate Commonwealth Entities) Delegation 2014* which provides clear directions to delegates in relation to the modification of the terms and conditions of amounts owing to the Commonwealth.

#### **Item 3 – Subparagraph 21(c)(iii) of Schedule 1**

Item 3 amends subparagraph 21(c)(iii) of Schedule 1 to correct a drafting error in relation to the listing for the Seafarers Safety, Rehabilitation and Safety Authority. Subparagraph 21(c)(iii) of Schedule refers to section 125(1) of the *Seafarers Rehabilitation and Compensation Act 1992*. The initial version of paragraph 21(c)(iii) incorrectly referred to the *Safety Rehabilitation and Compensation Act 1988*.

## **Statement of Compatibility with Human Rights**

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

### ***Public Governance, Performance and Accountability Legislation Amendment (RBA and Other Measures) Rule 2014***

The *Public Governance, Performance and Accountability Legislation Amendment (RBA and Other Measures) Rule 2014* (RBA and Other Measures Amendment Rule) 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 *Public Governance, Performance and Accountability Act 2013* (PGPA Act) sets out a framework for regulating resource management by the Commonwealth and relevant entities. Section 101 of the PGPA Act provides that the Finance Minister may make rules by legislative instrument to prescribe matters giving effect to the Act.

The *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014* (CTP Act) amended 242 Acts across the Commonwealth to support the implementation of PGPA Act and its related rules and instruments. Item 6 of Schedule 14 of the CTP Act provides that the Finance Minister may, by legislative instrument, make rules prescribing matters required or permitted by the CTP Act to be prescribed by the rules, or necessary or convenient to be prescribed for carrying out or giving effect to the CTP Act and the PGPA Act.

RBA and Other Measures Amendment Rule is intended to amend the rules instruments made under PGPA Act and the CTP Act, to support the implementation of the PGPA legislative framework. These rules instruments are the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) and the *Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Rule 2014* (CTP Rule).

The RBA and Other Measures Amendment Rule contains provisions that:

- Provide for the continuation of disclosure of interest arrangements in the CTP Rule, that were in place for the Reserve Bank of Australia under the *Reserve Bank Act 1959 Act* and *Commonwealth Authorities and Companies Act* (CAC Act) prior to the commencement of the PGPA legislative framework;
- Provide a mechanism for the preparation of financial statements should section 17A of the *Public Governance, Performance and Accountability Rule 2014* require financial statements to be prepared for a Commonwealth entity which has been abolished before the financial reporting rule is settled;
- Repeal a subparagraph of the PGPA Rule to align the effect of the provision with the initial policy intention not to change requirements for modification of terms and

conditions of amounts payable to the Commonwealth from what was imposed under the *Financial Management and Accountability Act 1997* (FMA Act); and

- Correct a drafting error in the PGPA Rule in relation to the listing of the Seafarers Safety, Rehabilitation and Compensation Authority.

### **Human rights implications**

The legislative instrument does not engage any of the applicable rights or freedoms.

### **Conclusion**

The legislative instrument is compatible with human rights as it does not raise any human rights issues.

**Senator the Hon Mathias Cormann  
Minister for Finance**