

# EXPLANATORY STATEMENT

## **Issued by authority of the Treasurer**

*Australian Business Securitisation Fund Act 2019*

*Australian Business Securitisation Fund Investment Mandate Directions 2019*

Section 13 of the *Australian Business Securitisation Fund Act 2019* (the Act) provides that the Minister may give directions about the exercise of the Minister's powers under section 12 of the Act.

The purpose of the *Australian Business Securitisation Fund Investment Mandate Directions 2019* (the Directions) is to give directions regarding the Minister's power to invest the funds of the Australian Business Securitisation Fund (ABSF) in authorised debt securities.

The Act establishes the ABSF, which is aimed at boosting competition in the small and medium enterprise (SME) lending market, and improving access to, and the price of, finance available to businesses in that market.

The ABSF will focus on investing in warehouses and the securitisation market to support eligible lenders to grow and provide credit to SMEs.

The Directions support the operation of the ABSF by providing guidance on investment strategies and policies, and investment risk and return.

Making investments in accordance with these Directions ensures the investments of the ABSF support the objectives of boosting competition in the SME lending market, and improving access to, and the price of, finance available to business in that market.

The Directions provide certainty to the market and public about the types of investments the ABSF will make and the market it will support, and also provides clarity to the Minister and any eligible delegates about the kinds of investments that are appropriate.

The Act does not specify any conditions that need to be met before the power to make the Directions is exercised.

The content of the Directions was consulted on in the key elements of the draft investment mandate that were released for public consultation between 21 December 2018 and 16 January 2019. The draft contained the Minister's intentions regarding the rules relating to the additional 'authorised debt security' requirements, and matters which form these directions.

The Directions commenced on the day after registration

The establishment and operation of the ABSF is expected to increase compliance costs by \$0.1 million per year. A regulation impact statement has been prepared, and is attached to the explanatory memorandum to the Australian Business Securitisation Fund Bill 2019.

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

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

*Australian Business Securitisation Fund Investment Mandate Directions 2019*

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 *Australian Business Securitisation Fund Investment Mandate Directions 2019* gives directions regarding the Minister's power to invest funds of the Australian Business Securitisation Fund in authorised debt securities.

### **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.

**Explanation of provisions**

**Sections 1, 2 and 3 — Machinery provisions**

Sections 1, 2 and 3 of the *Australian Business Securitisation Fund Investment Mandate Directions 2019* (the Directions) are machinery provisions setting out:

- the name of the Directions;
- the day the Directions commenced; and
- the authority for making the Directions.

**Section 4 — Definitions**

Section 4 defines expressions and terms that are used in the Directions.

**Section 5 — Purpose of the Directions**

Section 5 sets out the purpose of the Directions. The Directions have been made for the purposes of subsection 13(1) of the *Australian Business Securitisation Fund Act 2019* (the Act) to provide directions about the exercise of the Minister's powers to invest in authorised debt securities.

**Section 6 — Investment strategies and policies**

Section 6 provides for the investment strategies the Minister must prioritise, and the policies that guide investments, when investing funds of the Australian Business Securitisation Fund (ABSF) in authorised debt securities.

The Minister must prioritise:

- investments in underdeveloped sectors of the 'SME securitisation market';
- investments that assist the long-term development of that market;
- investments that encourage investment in that market by the private sector;
- investments that are likely to promote competition in the market for providing credit to small and medium enterprises (SMEs); and
- investments in debt securities that do not relate wholly or predominantly to credit provided for investments in financial assets or residential property.

"SME securitisation market" is defined in section 4 as the market for debt securities that relate to credit provided to SMEs. "Financial assets" has the same meaning as in the Future Fund Act 2006. "Residential property" takes its ordinary meaning.

"Long-term" in the investment strategies and policies is more than 10 years.

## **Section 7 – Investment decision-making criteria**

Section 7 provides the criteria the Minister must consider when investing funds of the ABSF in authorised debt securities.

The Minister must consider:

- whether the making of the investment will be consistent with the strategies and policies in section 6;
- the potential of the investment to affect other participants or prospective participants in the SME securitisation market having regard to the strategies and policies in section 6;
- if the investment is made at a rate of return that is less than the market rate, whether such an investment is reasonably required, having regard to the investment strategies and policies in section 6 and the other investment decision-making criteria in section 7;
- whether the investment will affect the ability of the ABSF to exit the SME securitisation market in the long-term without causing significant market dysfunction;
- whether the making of the investment will be appropriate, having regard to the matters relating to risk and return mentioned in section 8; and
- whether the making of the investment will be consistent with the Act and its objects.

The ABSF may invest at a rate of return that is less than the market rate, which is the expected rate of return for a given investment in the absence of public sector intervention. The Minister must consider whether to invest at a less than market rate against all the criteria in section 6, and other criteria in section 7. Not all investments should necessarily be made at a less than market rate of return.

Exiting the market describes ABSF actions to reduce or conclude its intervention in the SME securitisation market, such as the reduction or cessation of new investments, or the divestment of investments already made.

“Long-term” in the investment decision-making criteria is more than 10 years.

## **Section 8 — Investment risk and return**

The Minister must:

- ensure that the investments of the ABSF have an acceptable but not excessive level of risk, having regard to the objects of the Act; and
- aim to achieve over the medium-term, a net financial return on the investments of the ABSF that is not lower than the corresponding return on the Bloomberg AusBond Treasury 0-1 year index (the Bloomberg Index).

The financial return on the investments of the ABSF is the net return – that is, the return after investment management costs and any credit losses have been deducted. The ABSF is to aim to achieve this return over the medium-term, which is expected to be between 5 and 10 years.

The Bloomberg Index is published by Bloomberg Finance LP (Bloomberg), and is available online on Bloomberg’s website ([www.bloomberg.com](http://www.bloomberg.com)) or through a Bloomberg terminal. The code for the index is “BATY01:IND”.