

EXPLANATORY STATEMENT

Issued by authority of the Minister for Housing and Assistant Treasurer

Australian Securities and Investments Commission Act 2001

Australian Securities and Investments Commission Amendment (First Home Loan Deposit Scheme Guarantees) Regulations 2019

The *Australian Securities and Investments Commission Act 2001* (the Act) complements the *Corporations Act 2001* and provides for the Australian Securities and Investments Commission and certain other bodies. The Act outlines additional obligations and regulations applicable to business entities in Australia.

Section 251 of 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 purpose of the *Australian Securities and Investments Commission Amendment (First Home Loan Deposit Scheme Guarantees) Regulations 2019* (the Amending Regulations) is to make amendments to the *Australian Securities and Investments Commission Regulations 2001* (the Principal Regulations) in respect of definitions for financial products. The amendments exclude guarantees issued under the First Home Loan Deposit Scheme by the National Housing and Finance Investment Corporation as financial products.

The Commonwealth has enacted the *National Housing Finance and Investment Corporation Amendment Act 2019* which amended the *National Housing Finance and Investment Corporation Act 2018*. The Amending Act established the First Home Loan Deposit Scheme, which will provide a guarantee to allow eligible borrowers to purchase a modest home with a deposit of as little as 5 per cent, without incurring the additional cost of lender's mortgage insurance. The First Home Loan Deposit Scheme will be implemented by the National Housing Finance and Investment Corporation, a corporate Commonwealth entity. The First Home Loan Deposit Scheme will provide up to 10,000 guarantees for eligible first home buyers each year. Eligibility criteria will incorporate income and regional dwelling price limits.

Paragraph 12BAA(8)(p) of the Act provides that a facility, interest or other thing may be declared by the regulations not to be a financial product.

Item 1 of Schedule 1 to the Amending Regulations inserts section 2BD into the Principal Regulations to exclude guarantees issued under the First Home Loan Deposit Scheme by the National Housing and Finance Investment Corporation as financial products.

Public consultation on an exposure draft of the Amending Regulations and the accompanying exposure draft explanatory statement occurred from 27 October 2019 to 4 November 2019. No submissions were received and as a result no substantive changes were made in response to public consultation. Consultation was also undertaken with the Australian Securities and Investments Commission. Minor

editorial changes were made to the exposure draft explanatory statement following the end of the consultation period.

Under the *Corporations Agreement 2002*, the State and Territory Governments referred their constitutional powers with respect to corporate regulation to the Commonwealth. The Legislative and Governance Forum for Corporations has been notified about the Amending Regulations as required by the *Corporations Agreement 2002*. Paragraph 507(1)(f) and subclause 511(2) of the *Corporations Agreement 2002* provide that approval of the Legislative and Governance Forum for Corporations and the usual public exposure period are not required for amendments to regulations relating to financial products and services.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commenced on the day after it was registered.

The Regulations have a negligible compliance cost impact.

A statement of Compatibility with Human Rights is at [Attachment A](#).

Statement of Compatibility with Human Rights

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

Australian Securities and Investments Commission Amendment (First Home Loan Deposit Scheme Guarantees) Regulations 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 purpose of the *Australian Securities and Investments Commission Amendment (First Home Loan Deposit Scheme Guarantees) Regulations 2019* is to make amendments to the *Australian Securities and Investments Commission Regulations 2001* in respect of definitions for financial products. The amendments exclude guarantees issued under the First Home Loan Deposit Scheme by the National Housing and Finance Investment Corporation as financial products.

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.