

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Structured Finance Support (Coronavirus Economic Response Package) Act 2020

Structured Finance Support (Coronavirus Economic Response Package) Rules 2020

Subsection 20(1) of the *Structured Finance Support (Coronavirus Economic Response Package) Act 2020* (the Act) provides that the Minister may make rules prescribing matters required or permitted by the Act to be prescribed by the rules, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Structured Finance Support (Coronavirus Economic Response Package) Rules 2020* (the Rules) is to prescribe:

- a restriction that a first loss security cannot be an authorised debt security under the Act (in addition to the requirements set out in the Act); and
- the Australian Office of Financial Management (AOFM) as a listed entity whose officials may be “eligible delegates” for the purposes of the Minister’s delegation powers under the Act.

The Act established the Structured Finance Support (Coronavirus Economic Response) Fund, initially consisting of \$15 billion. The Fund enables the Government to ensure continued access for smaller lenders to funding markets impacted by the economic effects of the coronavirus, and to mitigate impacts on competition in consumer and business lending markets resulting from the coronavirus. In particular, the Fund will ensure smaller lenders can maintain access to funding, by the Government making targeted investments in structured finance markets.

The Rules enable the efficient operation of the Fund, by enabling delegation to AOFM officials, who are best placed to make the Fund’s investments. Further, the Rules help to manage risk for the Commonwealth by preventing first loss securities from being invested in as authorised debt securities.

The Australian Office of Financial Management was consulted in the course of the development of the Rules.

Details of the Rules are set out in Attachment A.

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

The Rules commenced on the day after they were registered on the Federal Register of Legislation.

A statement of Compatibility with Human Rights is at Attachment B.

Details of the *Structured Finance Support (Coronavirus Economic Response Package) Rules 2020*

Section 1—Name

Section 1 provides that the name of the Rules is the *Structured Finance Support (Coronavirus Economic Response Package) Rules 2020* (the Rules).

Section 2—Commencement

Section 2 provides that the Rules commenced on the day after registration on the Federal Register of Legislation.

Section 3—Authority

Section 3 provides that the *Structured Finance Support (Coronavirus Economic Response Package) Act 2020* (the Act) is the enabling legislation under which the Rules are made.

Section 4—Definitions

Section 4 provides definitions of expressions used in the Rules.

Section 5—Authorised debt securities

Section 5 prescribes a restriction on a debt security for it to be an authorised debt security for the purposes of the Act. The restriction is that the debt security must not be a first loss security.

The expression “first loss security” bears its ordinary meaning. First loss securities are securities that do not benefit from any subordination and therefore will be the first to suffer any losses. Preventing first loss securities from being authorised debt securities reduces risk for the Commonwealth, including by ensuring that smaller lenders continue to undertake an appropriate level of risk assessment before extending credit to households or small businesses.

Section 5 was made for the purposes of paragraph 12(4)(d) of the Act. This paragraph enables the Minister to prescribe requirements or restrictions for debt securities to be authorised debt securities, additional to those set out in paragraphs 12(4)(a) to (c) of the Act. Investments of the Fund may be made in authorised debt securities under paragraph 12(1)(a) of the Act.

Section 6—Eligible delegates

Section 6 prescribes the Australian Office of Financial Management (AOFM), enabling the Minister to delegate powers under the Act to AOFM officials. Delegation to AOFM officials will ensure the efficient operation of the Fund, as the AOFM is best placed to make the Fund’s investments.

Section 6 was made for the purposes of subsection 18(2) of the Act. This subsection empowers the Minister to prescribe listed entities to whose officials the Minister may delegate powers and functions under subsection 18(1) of the Act. The AOFM is a listed entity (see clause 2 of Schedule 1 to the *Public Governance, Performance and Accountability Rule 2014*).

Statement of Compatibility with Human Rights

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

Structured Finance Support (Coronavirus Economic Response Package) Rules 2020

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 this Legislative Instrument is to prescribe:

- a restriction that a first loss security cannot be an authorised debt security under the Act (in addition to the requirements set out in the Act); and
- the Australian Office of Financial Management (AOFM) as a listed entity, whose officials may be “eligible delegates” for the purposes of the Minister’s delegation powers under the *Structured Finance Support (Coronavirus Economic Response Package) Act 2020*.

This Legislative Instrument enables the efficient operation of the Structured Finance Support (Coronavirus Economic Response) Fund, by enabling delegation to AOFM officials, who are best placed to make the Fund’s investments. Further, this Legislative Instrument helps to manage risk for the Commonwealth by preventing first loss securities from being invested in as 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.