



## Approval to hold the transferring business of a financial sector company No. 2 of 2021

### *Financial Sector (Shareholdings) Act 1998*

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To: Horizon Credit Union Ltd ABN 66 087 650 173 (the applicant)

SINCE:

- A. the applicant has applied to the Treasurer under subsection 13(1) of the *Financial Sector (Shareholdings) Act 1998* (the Act) for approval to hold a stake of more than 20% in Lysaght Credit Union Ltd ABN 79 087 650 226 (the financial sector company);
- B. 100% of the gross assets and liabilities of the financial sector company are to be transferred to the applicant as a voluntary transfer of business under the *Financial Sector (Transfer and Restructure) Act 1999*; and
- C. I am satisfied that it is in the national interest to approve the applicant holding a stake of more than 20% in the financial sector company,

I, Lara Douglas, a delegate of the Treasurer, under paragraph 14(1)(a) of the Act, APPROVE the applicant holding a stake of 100% in the financial sector company.

This instrument takes effect on the day it is made and remains in force indefinitely.

Dated: 12 February 2021

[Signed]

Lara Douglas  
General Manager  
Banking Division

#### **Interpretation**

In this instrument:

***financial sector company*** has the meaning given in section 3 of the Act.

**stake** in relation to a company, has the meaning given in clause 10 of schedule 1 to the Act.

**Notes**

*Note 1* A person who holds an Approval under section 14 of the Act may apply to the Treasurer under subsection 17(1) of the Act, to vary the percentage specified in the Approval.

*Note 2* Under subsection 17(6) of the Act, the Treasurer may, on the Treasurer's own initiative, by written notice given to a person who holds an Approval under section 14, vary the percentage specified in the Approval if the Treasurer is satisfied it is in the national interest to do so.

*Note 3* The circumstances in which the Treasurer may revoke a person's Approval under section 14 are set out in subsection 18(1) of the Act.

*Note 4* Section 19 of the Act provides for flow-on approvals. If an Approval has been granted for the holding of a stake in a financial sector company and the financial sector company is a holding company for an authorised deposit-taking institution or an authorised insurance company, then an approval is taken to exist for the holding of a stake of equal value in each financial sector company that is a 100% subsidiary of the holding company.

*Note 5* Under section 14 of the Act, the Treasurer must give written notice of this Approval to the applicant and financial sector company concerned and this instrument will be registered in the Federal Register of Legislation as a notifiable instrument.

*Note 6* Under section 11 of the Act, a person or 2 or more persons under an arrangement are guilty of an offence if the person(s) acquires shares in a company and the acquisition has the result, in relation to a financial sector company, that:

(i) an unacceptable shareholding situation comes into existence; or

(ii) if an unacceptable shareholding situation already exists in relation to the company and in relation to a person there is an increase in the stake held by the person in the company;

and the person(s) was reckless as to whether the acquisition would have that result. A maximum penalty of 400 penalty units applies or by virtue of subsection 4B(3) of the Crimes Act 1914, in the case of a body corporate, a penalty not exceeding 2,000 penalty units. By virtue of section 39 of the Act, an offence against section 11 is an indictable offence.

*Note 7* Under subsection 32(3) of the Act, if a person has engaged in or is proposing to engage in any conduct in contravention of a condition to which an approval under section 14 is subject, the Federal Court may, on the application of the Treasurer, grant an injunction:

(i) restraining the person engaging in the conduct; and

(ii) if in the Court's opinion, it is desirable to do so, requiring the person to do something.