

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing

National Housing Finance and Investment Corporation Act 2018

*National Housing Finance and Investment Corporation Investment Mandate
Amendment (More Opportunities) Direction 2022*

Subsection 12(1) of the *National Housing Finance and Investment Corporation Act 2018* (the NHFIC Act) provides that the Minister may, by legislative instrument, give the Board of the National Housing Finance and Investment Corporation (NHFIC) directions about the performance of NHFIC's functions.

The NHFIC Act established NHFIC, a corporate Commonwealth entity dedicated to improving housing outcomes. NHFIC was initially established to operate the Affordable Housing Bond Aggregator and the National Housing Infrastructure Facility (NHIF).

The purpose of the *National Housing Finance and Investment Corporation Investment Mandate Amendment (More Opportunities) Direction 2022* (the Instrument) is to amend the *National Housing Finance and Investment Corporation Investment Mandate Direction 2018* (the Investment Mandate) to enable the rollover of unissued places in the New Home Guarantee (NHG) and the First Home Loan Deposit Scheme (FHLDS) from the 2020-21 financial year to the FHLDS for use in the 2021-22 financial year, and to increase the cap of NHFIC's total liabilities (Liabilities Cap) by \$0.5 billion to \$3.5 billion.

The Government wishes to roll over NHGs which were unissued in the 2020-21 financial year, together with unused FHLDS guarantees from the 2020-21 financial year, into the FHLDS for the 2021-22 financial year. The FHLDS supports purchases of both new and existing dwellings. This will provide more opportunities for first homebuyers to enter the market in the 2021-22 financial year. Accordingly, the Instrument amends the Investment Mandate to provide that 4,416 unissued guarantees from the NHG for the 2020-21 financial year, and 235 unissued guarantees from the FHLDS for the 2020-21 financial year, are available under the FHLDS in the 2021-22 financial year, in addition to the 10,000 guarantees that were made available from 1 July 2021.

Under the Investment Mandate, the Liabilities Cap sets the maximum value of liabilities that NHFIC can incur under its Government guarantee. NHFIC cannot incur liabilities exceeding the Liabilities Cap without prior agreement of the Minister for Housing and the Minister for Finance. Prior to this Instrument, the Liabilities Cap was \$3 billion.

The Instrument increases the cap on NHFIC's total guaranteed liabilities from \$3 billion to \$3.5 billion. The Liabilities Cap was previously increased from \$2 billion to \$3 billion, in October 2020. This additional \$0.5 billion increase gives NHFIC

capacity to continue supporting the capacity of the community housing sector to deliver social and affordable housing.

The Government commissioned a Statutory Review of the Operation of the *National Housing Finance and Investment Corporation Act 2018* (NHFIC Review). The Review's report was provided to the Minister for Housing on 13 August 2021. The Review noted that, given the trajectory of NHFIC's lending and the needs of the community housing sector, an increase to the Liabilities Cap would likely be sought in the near term. It further considered that it is important for NHFIC to have sufficient additional capacity under the Liabilities Cap for the sector to have ongoing confidence in NHFIC's ability to lend.

The NHFIC Review undertook consultation with a wide range of stakeholders, including in relation to increasing the Liabilities Cap. No public consultation was undertaken on the Instrument as its operation is machinery in nature, with the only change to the Investment Mandate being to the amount of the Liabilities Cap and because consultation had already been undertaken on the policy as part of the NHFIC Review.

Details of the Instrument are set out in Attachment A.

The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*. The Instrument is exempt from disallowance under section 42 of the *Legislation Act 2003* as a result of regulations made for the purposes of paragraph 44(2)(b) of that Act.

The Instrument commenced on the day after the Instrument was registered on the Federal Register of Legislation.

The Office of Best Practice Regulation has advised no Regulatory Impact Statement is required for the Instrument and has assessed the Instrument as having a minor regulatory impact.

ATTACHMENT A

Details of the *National Housing Finance and Investment Corporation Investment Mandate Amendment (More Opportunities) Direction 2022*

Section 1 – Name of the Instrument

This section provides that the name of the Instrument is the *National Housing Finance and Investment Corporation Investment Mandate Amendment (More Opportunities) Direction 2022* (the Instrument).

Section 2 – Commencement

Section 2 provides that the Instrument commenced on the day after the Instrument was registered on the Federal Register of Legislation.

Section 3 – Authority

Section 3 provides that the Instrument is made under the *National Housing Finance and Investment Corporation Act 2018* (the NHFIC Act).

Section 4 – Schedule

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

Schedule 1 – Amendments

Rollover of unissued guarantees for New Home Guarantee (NHG) and First Home Loan Deposit Scheme (FHLDS)

Unissued guarantees are guarantees that have not been issued and generally include guarantees that at the end of the financial year have lapsed, have been reserved or expired. This applies to both guarantees under the existing FHLDS and NHG.

The Investment Mandate currently provides rules limiting the number of FHLDS and NHG guarantees that may be issued in a financial year. It also provides that the Minister for Housing may make a written determination that any unissued guarantees from the previous year may be issued in the following financial year (or the 2021-22 financial year for the NHG). Further, it provides rules limiting the total number of FHLDS and NHG guarantees that may be issued to major banks in a financial year.

Item 1 of Schedule 1 to the Instrument inserts new subsection 29I(7A) that provides that, for the 2021-22 financial year, the total number of guarantees under the FHLDS is 14,651. In effect, 4,416 unissued guarantees from the NHG for the 2020-21 financial year, and 235 unissued guarantees from the FHLDS for the 2020-21 financial year, have been rolled over into the FHLDS for the 2021-22 financial year. Accordingly, with the standard 10,000 guarantees under the FHLDS, this takes the total number of guarantees under the FHLDS for the 2021-22 financial year to 14,651. The Item also provides that the total number of guarantees issued to major banks for the 2021-22 financial year must not exceed 7,325. This ensures that the

existing practice that smaller financial institutions provide at least half of all guarantees continues.

Increasing the Liabilities Cap under the National Housing Finance and Investment Corporation (NHFIC) Investment Mandate

Item 2 of Schedule 1 to the Instrument increases the Liabilities Cap under the NHFIC Investment Mandate from \$3 billion to \$3.5 billion.

NHFIC was established by the NHFIC Act and commenced operation on 1 July 2018. The objective of the NHFIC Act is to establish NHFIC to improve housing outcomes for Australians.

On 19 November 2020, the Government commissioned a Statutory Review of the Operation of the NHFIC Act (the Review). While the Review found that the NHFIC Act has been a significant and successful initiative by the Commonwealth, it made recommendations it considered could improve the operation of the NHFIC Act and better achieve the overall objectives of the NHFIC Act. A key recommendation was that NHFIC be given an explicit mandate to ‘crowd in’ other financiers to support the delivery of social and affordable housing at greater scale.

This increase in the Liabilities Cap is consistent with the Review’s recommendation. It enables NHFIC to continue to support the development of social and affordable housing that delivers the greatest impact for the sector, and supports NHFIC’s ability to ‘crowd-in’ new sources of finance.