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# **Explanatory Statement for the *Housing Australia Future Fund Investment Mandate Direction 2023***

## **Objective of the Direction ('Investment Mandate')**

- 1 As stated in the *Housing Australia Future Fund Act 2023* (the Act), the Government has established the Housing Australia Future Fund (the Fund) to provide a funding mechanism to increase the availability of social housing and affordable housing and to address acute housing needs, including in relation to Indigenous persons, women, children and veterans.
- 2 Under the Act, the Future Fund Board of Guardians (the Board) is responsible for deciding how to invest the Fund and must seek to maximise the return earned on the Fund over the long term, consistent with international best practice for institutional investment.
- 3 This investment function is subject to any restrictions placed on the Fund by the Act and any directions given by the responsible Ministers under subsection 41(1). Directions issued under subsection 41(1) of the Act are known collectively as the Housing Australia Future Fund Investment Mandate.

## **Notes on the Sections**

### **Part 1 - Preliminary**

#### ***Section 1 - Name***

- 4 The naming convention of this investment mandate follows the Office of Parliamentary Counsel's Drafting Direction No 1.1A, issued 1 July 2022.
- 5 The investment mandate directs the Board (via 'written directions') under subsection 41(1) of the Act.

#### ***Section 2 - Commencement***

- 6 The investment mandate takes effect 15 days after it has been provided to the Board, consistent with subsection 41(6) of the Act.
- 7 This investment mandate is a legislative instrument that is not subject to disallowance or sunseting, pursuant to the *Legislation (Exemption and Other Matters) Regulation 2015* made under the *Legislation Act 2003*. This is consistent with the longstanding approach for all Commonwealth investment funds.

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*Exemption from disallowance*

- 8 As written directions from the responsible Ministers to a body (the Board), investment mandates are exempt from disallowance under item 2 of the table at section 9 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, which provides that ‘an instrument that is a direction by a Minister to any person or body’ is a class of instruments that is not subject to disallowance.
- 9 Exemption from disallowance provides the Board with the necessary level of certainty when investing the capital of the Fund. Subjecting the investment mandate to a period of disallowance before coming into effect would delay the investment of the Fund, potentially by several months, and would likely incur a significant opportunity cost in terms of foregone returns. It would also impede the ability of the Government to make timely changes to the investment mandate, as and when required.
- 10 Although the investment mandate is exempt from disallowance, the Act provides for appropriate parliamentary and public scrutiny. The Act requires the responsible Ministers to consult the Board before issuing an investment mandate, with any submission to be considered by responsible Ministers and tabled in both houses of the Parliament (subsection 44(2) of the Act refers). This requirement ensures that the Parliament is informed of any matters raised by the Board with respect to proposed investment mandates.
- 11 The investment mandate will be published on the Federal Register of Legislation, along with any submission on the draft investment mandate by the Board.

*Exemption from sunseting*

- 12 Note 2 to subsection 41(7) of the Act states that Part 4 of Chapter 3 of the *Legislation Act 2003* (sunseting) does not apply to the investment mandate direction.
- 13 Investment mandates for Commonwealth investment funds are not subject to sunseting due to the long-term nature of the funds’ investments and the administrative and technical nature of the investment mandates.
- 14 While the Government may need to update one or more investment mandates from time to time (for example, in response to urgent or unforeseen events, or to reflect evolving investment market dynamics), an investment mandate is generally issued with the expectation that it will be in place over the medium to longer term. For example, the investment mandates for the DisabilityCare

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Australia Fund and the Medical Research Future Fund have been in place since inception (2013 and 2015 respectively).

- 15 Exemption from sunseting provides for an ongoing investment mandate until such a time that the Government considers it necessary to amend the investment mandate or issue a new investment mandate.
- 16 Additionally, the investment mandate for the Fund may comprise of multiple different directions issued at different times. The exemption from sunseting ensures that the directions remain coherent, regardless of when specific directions were issued.

### ***Section 3 - Authority***

- 17 The Minister for Finance and the Treasurer, as responsible Ministers under the Act, are required to issue at least one investment mandate to the Board under section 41(1) of the Act. This is the first investment mandate that will take effect after the commencement of the Act.

### ***Section 4 - Definitions***

- 18 Definitions are to be read in conjunction with the relevant Acts, which include the Act and the *Future Fund Act 2006*.

## **Part 2 - Direction**

### ***Section 5 - Object***

- 19 The Board is to carry out the investment function as outlined in the Act and in accordance with this investment mandate, in addition to their existing functions outlined in the *Future Fund Act 2006*.
- 20 The investment mandate requires the Board to maximise the return earned on the Fund over the long term, consistent with international best practice for institutional investment.
- 21 The investment mandate provides guidance to the Board on matters of risk and returns, and other matters that are consistent with the Act.

### ***Section 6 - Benchmark return and acceptable level of risk***

- 22 For the purposes of this investment mandate the Government has directed the Board to adopt, as the benchmark return for the performance of the Fund, an

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average return over the long term of at least the Consumer Price Index + 2.0 per cent to +3.0 per cent per annum net of costs.

- 23 Implementing a mandate with a range provides the Board with scope to target lower levels of return when it believes the prospective reward for investment risk is relatively low, and conversely, higher levels of return when it believes the prospective reward for investment risk is relatively high.
- 24 The Government accepts that there will need to be an initial transition period for the Board to invest amounts credited in financial assets and implement a long-term strategic asset allocation consistent with the Board's obligations under the Act and the directions in the Investment Mandate.
- 25 During this period, the benchmark return may not be met. The Government accepts that this transition period could be up to 12 months.

*Acceptable level of risk*

- 26 The Government is conscious of the risks inherent in investing financial assets and acknowledges that, in practice, this will involve some volatility in the Fund's returns, including the possibility of material losses in some years.
- 27 To provide the Board with guidance on the limits to the Government's acceptance of risk in pursuing the benchmark rate of return, the Direction states "the Government acknowledges that targeting the long-term benchmark return implies accepting the risk of capital losses, in adverse markets, that may be 15 per cent to 20 per cent of the portfolio over a three-year period".
- 28 The Direction provides that the Government acknowledges the risk that the Fund's value may fall below the value (in nominal terms) of the credit(s) to the Fund (as per section 11 of the Act) in the future. This may occur if the Fund suffers capital losses, or where disbursements from the Fund exceed the Fund's returns (net of costs).
- 29 The Direction also provides that the Government acknowledges that the Board does not have any obligation (in addition to its duties and obligations set out in the *Future Fund Act 2006*, the Act and the investment mandate) to preserve the value (in nominal or real terms) of the total amounts that are credited to the Fund under section 11 of the Act.
- 30 The investment mandate requires the Board to have regard to section 15 of the Act. This requires the Board to take all reasonable steps to ensure that the balance of the Special Account is sufficient to cover debits for the purposes of the Fund.

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The Board will need to ensure the portfolio has sufficient liquidity to meet the required cash flows.

***Section 7 - Board must consider impacts from its investment strategy***

- 31 The Government has a broad obligation to the Australian community to make decisions that are economically and fiscally responsible. In establishing the Fund, it is the expectation of the Government that the investments of the Fund should not disrupt the normal operation of domestic financial markets.
- 32 The Board, in setting the investment strategy and in instructing the investment of the Fund, must act in a manner that minimises the potential to effect any abnormal change in the volatility or efficient operation of Australian financial markets.
- 33 The Board is also required to act in a manner that is unlikely to cause any diminution of the Government's reputation in Australian and international financial markets.
- 34 The Government participates in a number of international organisations which pursue high standards of conduct in financial markets. The Government recognises that the Board will invest in international capital markets as part of a sound investment strategy involving diversification. In doing so, the Government expects that the Board will act in a manner that is unlikely to cause embarrassment to the Government.

***Section 8 - Corporate governance***

- 35 In undertaking its investment functions, the Board must act consistent with, and establish policies on matters relevant to, international best practice for institutional investment. The Government would also expect the Board's policies to include its approach to corporate governance principles, including its voting policy.

***Section 9 – Reporting***

- 36 To provide appropriate transparency on the investment performance of the Fund, the Board is required, at a minimum, to publish quarterly reports on its website.
- 37 Consistent with the quarterly reports for the existing Commonwealth investment funds, the quarterly reports are to include information on the asset allocation of the portfolio by category and the actual returns against the benchmark return.

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## **Consultation**

- 38 The Board has been consulted prior to setting this investment mandate, in accordance with section 44 of the Act. The Board's submission, if made, will be tabled and published on the Federal Register of Legislation.