

EXPLANATORY STATEMENT

Issued by authority of the Minister for Finance

Public Governance, Performance and Accountability Act 2013

Public Governance, Performance and Accountability (Investment) Authorisation 2024

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) sets out a framework for regulating resource management by Commonwealth entities and companies.

Section 59 of the PGPA Act permits corporate Commonwealth entities to invest money that is not immediately required for the purposes of the entity in certain types of investments prescribed in the Act as well as investments authorised by the Finance Minister in writing or in the rules.

Subparagraph 59(1)(b)(iii) of the PGPA Act provides that the Finance Minister may authorise forms of investment by corporate Commonwealth entities in writing. This instrument is made under subparagraph 59(1)(b)(iii) of the PGPA Act.

The existing instrument, the *Public Governance, Performance and Accountability (Investment) Authorisation 2014* (the 2014 Authorisation), made under subparagraph 59(1)(b)(iii) sunsets on 1 October 2024. Most legislative instruments sunset 10 years after commencement under Chapter 3, Part 4 of the *Legislation Act 2003*.

This instrument the *Public Governance, Performance and Accountability (Investment) Authorisation 2024* (the 2024 Authorisation) repeals and replaces the *Public Governance, Performance and Accountability (Investment) Authorisation 2014*.

The 2024 Authorisation reflects the National Housing Finance and Investment Corporation's change in name to Housing Australia from 12 October 2023 as provided for in the *Treasury Laws Amendment (Housing Measures No. 1) Act 2023*. Aside from this name change, the 2024 Authorisation retains the substantive forms of authorised investments of the 2014 Authorisation for the following 10 corporate Commonwealth entities:

- (a) Australian Broadcasting Corporation;
- (b) Export Finance and Insurance Corporation;
- (c) Grains Research and Development Corporation;
- (d) Rural Industries Research and Development Corporation;
- (e) Commonwealth Scientific and Industrial Research Organisation;
- (f) Civil Aviation Safety Authority;
- (g) Australian Hearing Services;
- (h) Australian Nuclear Science and Technology Organisation;
- (i) Airservices Australia;
- (j) Housing Australia.

Subsection 59(4), of the PGPA Act provides that authorisations made under subparagraph 59(1)(b)(iii) are legislative instruments that are not subject to disallowance under section 42 of the *Legislative Instruments Act 2003*.

Details of the 2024 Authorisation are set out at Attachment A.

The whole of the instrument commences the day after registration.

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is not required for the 2024 Authorisation. Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility with Human Rights for all legislative instruments subject to disallowance under section 42 of the *Legislation Act 2003*. As the 2024 Authorisation is exempt from disallowance under subsection 59(4) of the PGPA Act, a Statement of Compatibility with Human Rights is not required.

Consultation

The 2024 Authorisation was developed in consultation with the Australian Broadcasting Corporation, the Export Finance and Insurance Corporation, the Grains Research and Development Corporation, the Rural Industries Research and Development Corporation, the Commonwealth Scientific and Industrial Research Organisation, the Civil Aviation Safety Authority, Australian Hearing Services, the Australian Nuclear Science and Technology Organisation, Airservices Australia and Housing Australia.

The 2024 Authorisation was drafted by the Office of Parliamentary Counsel.

Details of the *Public Governance, Performance and Accountability (Investment) Authorisation 2024*

Part 1 – Preliminary

Section 1 – Name

This section states that the name of this instrument is the *Public Governance, Performance and Accountability (Investment) Authorisation 2024* (2024 Authorisation).

Section 2 – Commencement

This section provides that the whole of the instrument commences the day after registration.

Section 3 – Authority

This section provides that this instrument is made under subparagraph 59(1)(b)(iii) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

Section 4 – Schedules

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

Section 5 – Definitions

approved bank

‘Approved bank’ is defined in the instrument as a person that carries on the business of banking in Australia the operations of which are subject to prudential supervision or regulation, under a law of the Commonwealth, a State or a Territory and the business of which has a Standard and Poor’s long-term rating of:

- for a Part other than Part 3 (Export Finance and Insurance Corporation) of the 2024 Authorisation—A- (or the Moody’s or Fitch’s equivalent) or better; and
- for Part 3—BBB- (or the Moody’s or Fitch’s equivalent) or better.

Standard and Poor’s is a private credit rating agency that issues credit ratings to companies and countries (and the debt they issue) on a scale of AAA to D, indicating their degree of investment risk. Definitions for Standard and Poor’s credit ratings can be found on their website. Fitch and Moody’s are also private credit rating agencies that issue credit ratings. Definitions for Fitch and Moody’s credit ratings can be found on their respective websites.

approved entity

‘Approved entity’ is defined in the instrument as an entity that operates inside or outside Australia and has a Standard and Poor’s long-term rating of AA- (or the Moody’s or Fitch’s equivalent) or better.

dematerialised security

‘Dematerialised security’ is defined in the instrument as a security that is deposited in the Austraclear system. Dematerialised securities are securities that exist (i.e are created, registered and traded) only in electronic form. Austraclear, Australia’s major central debt registry and settlement facility, introduced dematerialised securities in 1999 and since 2002, the Commonwealth has issued all new Treasury Bonds and Treasury Notes in the dematerialised form.

securities

‘Securities’ is defined in the instrument as:

- debentures, bonds, promissory notes, commercial paper, bills of exchange, certificates of deposit and fixed and floating rate notes issued under a senior debt program, and their dematerialised security equivalents; but
- does not include any instrument or document that is in the nature of equity, subordinate debt or hybrid equity.

senior debt program

‘Senior debt program’ means a program under which debt is issued and ranked ahead of other debt; and has priority if debt has to be redeemed in cases of liquidation.

Part 2 – The Australian Broadcasting Corporation**Section 6**

This section provides that the Australian Broadcasting Corporation (the ABC) is authorised to invest relevant money for which they are responsible in:

- bills of exchange accepted or endorsed only by an approved bank;
- certificates of deposit with an approved bank.

They may also invest in dematerialised securities that are the equivalent of the above. Investments must be in the name of the ABC and denominated in Australian currency.

Part 3 – The Export Finance and Insurance Corporation**Subsection 7(1)**

This subsection provides that the Export Finance and Insurance Corporation (EFIC) is authorised to invest relevant money for which EFIC is responsible in accordance with section 7.

Subsection 7(2)

This subsection provides that EFIC may invest money in one or more of the following ways:

- in securities issued by an approved bank;
- on deposit with, or in securities issued or guaranteed by, an approved entity.

Subsection 7(3)

This subsection provides that investments must be in the name of EFIC.

Subsection 7(4)

This subsection provides that subsections 5 to 7 apply if an investment:

- is securities issued by an approved bank; and
- has a Standard and Poor's long-term rating lower than A- (or the Moody's or Fitch's equivalent).

Subsection 7(5)

This subsection provides that the investment together with any other such investments of EFIC in the approved bank, must not exceed 10% of the total investments of EFIC. This ensures that EFIC's investments do not become overly concentrated in one approved bank.

Subsection 7(6)

This subsection provides that the investment, together with any other such investments of EFIC in any approved bank, must not exceed 25% of the total investments of EFIC.

Subsection 7(7)

This subsection provides that the investment:

- must not have a term longer than 3 years; and
- if the investment has a term longer than 6 months it must be able to be traded in the secondary market.

A secondary market is where investors purchase securities from other investors rather than from the issuing institution itself. The requirements in this subsection assist in ensuring that EFIC does not invest in illiquid investments.

Part 4 – The Grains Research and Development Corporation

Subsection 8(1)

This subsection provides that the Grains Research and Development Corporation (GRDC) is authorised to invest relevant money for which GRDC is responsible in accordance with section 8.

Subsection 8(2)

This subsection provides that the GRDC may invest in one or more of the following:

- bills of exchange accepted or endorsed only by an approved bank;
- certificates of deposit with an approved bank;
- floating rate notes issued by an approved bank under a senior debt program;
- 11 am call deposits with an approved bank.

The GRDC may also invest in dematerialised securities that are equivalent to the above (with the exception of 11 am call deposits). 11 am call deposits are overnight deposit facilities where daily access to funds is provided as long as notice is provided by 11 am that funds are required.

Subsection 8(3)

This subsection provides that investments must be in the name of the GRDC and denominated in Australian currency.

Subsection 8(4)

This subsection provides that investments in floating rate notes issued by an approved bank under a senior debt program (or the equivalent in dematerialised securities) must not either cumulatively or singly exceed 20% of the total investments of the GRDC.

Part 5 – The Rural Industries Research and Development Corporation

Section 9

This section provides that the Rural Industries Research and Development Corporation (RIRDC) is authorised to invest relevant money for which they are responsible in bills of exchange accepted or endorsed only by an approved bank (or the equivalent in dematerialised securities). Investments must be in the name of the RIRDC and denominated in Australian currency.

Part 6 – The Commonwealth Scientific and Industrial Research Organisation

Section 10

This section provides that the Commonwealth Scientific and Industrial Research Organisation (the CSIRO) is authorised to invest relevant money for which they are responsible in:

- bills of exchange accepted or endorsed only by an approved bank;
- certificates of deposit with an approved bank.

They may also invest in dematerialised securities that are the equivalent of the above. Investments must be in the name of the CSIRO and denominated in Australian currency.

Part 7 – The Civil Aviation Safety Authority

Section 11

This section provides that the Civil Aviation Safety Authority (CASA) is authorised to invest relevant money for which they are responsible in:

- bills of exchange accepted or endorsed only by an approved bank;
- certificates of deposit with an approved bank.

They may also invest in dematerialised securities that are the equivalent of the above. Investments must be in the name of CASA and denominated in Australian currency.

Part 8 – Australian Hearing Services

Section 12

This section provides that Australian Hearing Services is authorised to invest relevant money for which they are responsible in bills of exchange accepted or endorsed only by an approved bank (or the equivalent in dematerialised securities). Investments must be in the name of Australian Hearing Services and denominated in Australian currency.

Part 9 – The Australian Nuclear Science and Technology Organisation

Section 13

This section provides that Australian Nuclear Science and Technology Organisation (ANSTO) is authorised to invest relevant money for which they are responsible in:

- bills of exchange accepted or endorsed only by an approved bank;
- certificates of deposit with an approved bank.

They may also invest in dematerialised securities that are the equivalent of the above. Investments must be in the name of ANSTO and denominated in Australian currency.

Part 10 – Airservices Australia

Section 14

This section provides that Airservices Australia is authorised to invest up to \$20 million of relevant money for which they are responsible in floating rate notes issued by an approved bank under a senior debt program (or the equivalent in dematerialised securities). The investments must be in the name of Airservices Australia and denominated in Australian currency.

Part 11 – Housing Australia

Subsection 15(1)

This subsection provides that Housing Australia is authorised to invest relevant money for which Housing Australia is responsible in accordance with section 15.

Subsection 15(2)

This subsection provides that Housing Australia may invest money in one or more of the following ways:

- in securities issued by an approved bank;
- on deposit with, or in securities issued or guaranteed by, an approved entity.

Subsection 15(3)

This subsection provides that investments must be in the name of Housing Australia.

Subsection 15(4)

This subsection provides that subsections 5 to 7 apply if an investment:

- is securities issued by an approved bank; and
- has a Standard and Poor's long-term rating lower than A- (or the Moody's or Fitch's equivalent).

Subsection 15(5)

This subsection provides that the investment together with any other such investments of Housing Australia in the approved bank, must not exceed 10% of the total investments of Housing Australia. This ensures that Housing Australia's investments do not become overly concentrated in one approved bank.

Subsection 15(6)

This subsection provides that the investment, together with any other such investments of Housing Australia in any approved bank, must not exceed 25% of the total investments of Housing Australia.

Subsection 15(7)

This subsection provides that the investment:

- must not have a longer term than 3 years; and
- if the investment has a term longer than 6 months it must be able to be traded in the secondary market.

A secondary market is where investors purchase securities from other investors rather than from the issuing institution itself. The requirements in this subsection assist in ensuring that Housing Australia does not invest in illiquid investments.

Schedule 1—Repeals

Public Governance, Performance and Accountability (Investment) Authorisation 2014

Item 1 – The whole of the instrument

This item would repeal the *Public Governance, Performance and Accountability (Investment) Authorisation 2014*.