

|  |
| --- |
| **EXPOSURE DRAFT** |

Financial Sector (Transfer and Restructure) Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor–General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2018

Peter Cosgrove

Governor‑General

By His Excellency’s Command

Stuart Robert **[DRAFT ONLY—NOT FOR SIGNATURE]**

Assistant Treasurer

Contents

1 Name 1

2 Commencement 1

3 Authority 1

4 Schedules 1

5 Definitions 1

6 Relationship of the Act with the *Administrative Decisions (Judicial Review) Act 1977* 2

7 Relationship of the Act with the *Banking Act 1959* 2

8 Relationship of the Act with the *Financial Sector (Shareholdings) Act 1998* 2

9 Relationship of the Act with certain other laws 2

Schedule 1—Repeals 3

Financial Sector (Transfers of Business) Regulations 1999 3

1 Name

 This instrument is the *Financial Sector (Transfer and Restructure) Regulations 2018*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. |  |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under the *Financial Sector (Transfer and Restructure) Act 1999*.

4 Schedules

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

 In this instrument:

***Act*** means the *Financial Sector (Transfer and Restructure) Act 1999*.

***restructure*** means a restructure that takes effect, or may take effect, under the Act.

***transfer of business*** means a transfer of business that takes effect, or may take effect, under the Act.

***transfer of shares*** means a transfer of shares that takes effect, or may take effect, under the Act.

6 Relationship of the Act with the *Administrative Decisions (Judicial Review) Act 1977*

 For the purposes of subsection 43(4) of the Act, the provisions of the *Administrative Decisions (Judicial Review) Act 1977* apply in relation to a transfer of business, a transfer of shares or a restructure, as if paragraph 5(1)(a) of that Act were omitted.

7 Relationship of the Act with the *Banking Act 1959*

 For the purposes of subsection 43(4) of the Act, the provisions of the *Banking Act 1959* apply in relation to a transfer of business, a transfer of shares or a restructure.

8 Relationship of the Act with the *Financial Sector (Shareholdings) Act 1998*

 For the purposes of subsection 43(4) of the Act, the provisions of the *Financial Sector (Shareholdings) Act 1998*:

 (a) apply in relation to a transfer of shares or a restructure; and

 (b) apply in relation to a transfer of business as if the following sections were inserted after section 13 of that Act:

**13A Application for approval to hold business to be transferred under the *Financial Sector (Transfer and Restructure) Act 1999***

 (1) This section applies to a financial sector company to which more than 15% of the gross assets and liabilities of another financial sector company (the ***transferring business***) is to be transferred under the *Financial Sector (Transfer and Restructure) Act 1999*.

 (2) The company must apply to the Treasurer for approval to hold the transferring business.

 (3) This Division applies to the application as if the transferring business were a separate financial sector company.

9 Relationship of the Act with certain other laws

 For the purposes of subsection 43(4) of the Act, the provisions of the following Acts apply in relation to a transfer of business, a transfer of shares or a restructure:

 (a) the *Foreign Acquisitions and Takeovers Act 1975*;

 (b) the *Insurance Acquisitions and Takeovers Act 1991*.

Schedule 1—Repeals

Financial Sector (Transfers of Business) Regulations 1999

1 The whole of the instrument

Repeal the instrument.