

EXPOSURE DRAFT



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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

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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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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.

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Section 6

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.