



New South Wales

Financial Sector Reform (Savings and Transitional) Regulation 1999

under the

Financial Sector Reform (New South Wales) Act 1999

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Financial Sector Reform (New South Wales) Act 1999*.

MICHAEL EGAN, M.L.C.,

Treasurer

Explanatory note

In 1997, the Financial System Inquiry recommended that the supervision of building societies, credit unions and friendly societies be transferred from the State Financial Institutions Scheme to Commonwealth regulators. Following agreement by State and Territory Governments with the Commonwealth Government to give effect to the recommendation, the Commonwealth developed the *Financial Sector Reform (Amendment and Transitional Provisions) Act (No. 1) 1999*. That legislation is the primary vehicle effecting the transfer.

Each State and Territory agreed to pass legislation to support and complement the Commonwealth legislation where necessary to ensure the effectiveness of the transfers. As a consequence, the *Financial Sector Reform (New South Wales) Act 1999* was enacted to provide for the transfer of building societies, credit unions and friendly societies to Commonwealth regulation.

The savings and transitional measures in the Act specified how references in other Acts and instruments to a “building society”, “credit union” or “friendly society” were to be construed. The Act also enables regulations to be made to interpret references relating to these bodies. The object of this Regulation is to complement

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the Act by setting out how certain references to building societies, credit unions and friendly societies are to be construed.

This Regulation is made under the *Financial Sector Reform (New South Wales) Act 1999*, including section 54.

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1 Name of Regulation

This Regulation is the *Financial Sector Reform (Savings and Transitional) Regulation 1999*.

2 Commencement

This Regulation commences on the transfer date.

Note. The “transfer date” is defined in the *Financial Sector Reform (New South Wales) Act 1999* as the date that, under section 3 (16) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth is specified as the transfer date for the purposes of that Act.

3 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

4 Definitions

In this Regulation:

authorised building society means a body corporate that has a consent under section 66 of the *Banking Act 1959* of the Commonwealth to assume or use the restricted expression “building society” or any other word or expression (whether or not in English) that is of like import to “building society”.

authorised credit union means a body corporate that has a consent under section 66 of the *Banking Act 1959* of the Commonwealth to assume or use the restricted expression “credit union” or “credit society” or any other word or expression (whether or not in English) that is of like import to “credit union” or “credit society”.

5 Construction of references in Acts

Unless otherwise provided in this Regulation, in any Act (other than the *Financial Sector Reform (New South Wales) Act 1999*) or statutory instrument, a reference (however expressed) to:

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- (a) a society, building society or a credit union under, or registered under, or incorporated under, or within the meaning of the *Financial Institutions (NSW) Code*, the *Financial Institutions (New South Wales) Act 1992* or a corresponding law or Code of another jurisdiction is to be construed as a reference to an ADI, and
- (b) a society or a friendly society under, or registered under, or incorporated under, or within the meaning of the *Friendly Societies (NSW) Code*, the *Friendly Societies Act 1989* or the *Friendly Societies (New South Wales) Act 1997* or a corresponding law or Code of another jurisdiction is to be construed as a reference to:
- (i) a body that, immediately before the transfer date, was a society within the meaning of the *Friendly Societies (NSW) Code*, or
 - (ii) a body that is a friendly society for the purposes of the *Life Insurance Act 1995* of the Commonwealth, and
- (c) an “institution registered under the *Financial Institutions (New South Wales) Act 1992*” is to be construed as a reference to an ADI, and
- (d) a financial institution referred to as having “the same meaning as in the *Financial Institutions (NSW) Code*” is to be construed as a reference to an authorised building society or an authorised credit union, and
- (e) a “non-bank financial institution which is governed by the *Financial Corporations Act 1974* of the Commonwealth or the *Financial Institutions Code 1992*” is to be construed as a reference to an ADI.

Note. The terms “*Financial Institutions (NSW) Code*”, “*Friendly Societies (NSW) Code*” and “transfer date” are defined in the *Financial Sector Reform (New South Wales) Act 1999*. The term “ADI”, which stands for “authorised deposit-taking institution”, is defined in the *Interpretation Act 1987*, as amended by that Act.

6 Associations Incorporation Act 1984 No 143

- (1) In section 7 (2) of the *Associations Incorporation Act 1984* before its amendment by Schedule 6.2 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*, the reference to an association “registered or required to be registered under the *Friendly Societies (NSW) Code*, the *Permanent Building Societies Act 1967* or the *Credit Union Act 1969*” in paragraph (e) is to be construed as a reference to a friendly society or an authorised building society or an authorised credit union.

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(2) In section 7 (2) of the *Associations Incorporation Act 1984* after its amendment by Schedule 6.2 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:

- (a) the reference in paragraph (e) to a “society under the *Friendly Societies Act 1989*” is to be construed as a reference to a friendly society, and
- (b) the reference in paragraph (e) to a “building society or credit union under the *Financial Institutions (NSW) Code*” is to be construed as a reference to an authorised building society or an authorised credit union.

Note. Subclause (1) will apply to section 7 of the *Associations Incorporation Act 1984* before the amendments to that section by the *Co-operative Housing and Starr-Bowkett Societies Act 1998* commence, and will cease to apply when those amendments take effect. Subclause (2) will apply to section 7 once those amendments take effect.

7 Confiscation of Proceeds of Crime Act 1989 No 90

In the definition of *building society* in section 4 of the *Confiscation of Proceeds of Crime Act 1989*, the reference to a “society registered or incorporated as a building society, permanent building society” is to be construed as a reference to an ADI.

8 Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11

In the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:

- (a) the reference to a “building society or credit union under the financial institutions legislation” in the definition of *financial institution* in section 3 (1) is to be construed as a reference to an ADI, and
- (b) the reference to a “financial institution or proposed financial institution under the financial institutions legislation” in section 81 (5) (b) is to be construed as a reference to an ADI.

9 Co-operatives Act 1992 No 18

In the *Co-operatives Act 1992*:

- (a) the reference to a “financial institution or foreign society registered under financial institutions legislation within the meaning of the *Financial Institutions (NSW) Code*” in paragraph (b) of the definition of *foreign co-operative* in section 5 is to be construed as a reference to an ADI, and

- (b) the reference to a “credit union or foreign society within the meaning of the *Financial Institutions (NSW) Code*” in section 255 (5) (b) is to be construed as a reference to an authorised credit union.

10 Credit Act 1984 No 94

In the *Credit Act 1984*:

- (a) the reference to a “society within the meaning of the *Financial Institutions (NSW) Code*” in section 18 (1) is to be construed as a reference to an authorised building society, and
- (b) the reference to a “credit union within the meaning of the law of another State or of a Territory that corresponds to the *Financial Institutions (NSW) Code*” in section 18 (3) is to be construed as a reference to an authorised credit union.

11 Criminal Assets Recovery Act 1990 No 23

In section 4 of the *Criminal Assets Recovery Act 1990*:

- (a) the reference to a “society registered or incorporated as a building society, permanent building society” in the definition of *building society* is to be construed as a reference to an ADI, and
- (b) the reference to a “society or other body of persons that under a law in force in New South Wales or in another State or in a Territory is registered or incorporated as a credit union” in the definition of *credit union* is to be construed as a reference to an ADI.

12 Debits Tax Act 1990 No 112

In section 8 (2) of the *Debits Tax Act 1990*:

- (a) the reference to a “building society” is to be construed as a reference to an authorised building society, and
- (b) the reference to “credit union” is to be construed as a reference to an authorised credit union.

13 District Court Act 1973 No 9

- (1) In section 103 (1) of the *District Court Act 1973* before its amendment by Schedule 6.7 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:
- (a) the reference to a “society registered under the *Permanent Building Societies Act 1967*” in paragraph (a) of the definition of **building society** is to be construed as a reference to an ADI, and
 - (b) the reference to a “credit union registered under the *Credit Union Act 1969*” in paragraph (a) of the definition of **credit union** is to be construed as a reference to an ADI.
- (2) In section 103 (1) of the *District Court Act 1973* after its amendment by Schedule 6.7 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:
- (a) the reference to a “building society registered under the *Financial Institutions (NSW) Code*” in the definition of **building society** is to be construed as a reference to an ADI, and
 - (b) the reference to a “credit union registered under the *Financial Institutions (NSW) Code*” in the definition of **credit union** is to be construed as a reference to an ADI.

Note. Subclause (1) will apply to section 103 of the *District Court Act 1973* before the amendments to the definitions of **building society** and **credit union** in the *District Court Act 1973* by the *Co-operative Housing and Starr-Bowkett Societies Act 1998* commence, and will cease to apply when those amendments take effect. Subclause (2) will apply to section 103 once those amendments take effect.

14 Duties Act 1997 No 123

In the *Duties Act 1997*:

- (a) the reference to “Part 7 or 8 of the *Financial Institutions (NSW) Code* or a corresponding law of another State or Territory” in section 65 (1) (f) is to be construed as a reference to the *Financial Sector (Transfers of Business) Act 1999* of the Commonwealth, and
- (b) the reference to a “continuing building society within the meaning of the *Financial Institutions (NSW) Code*” in the definition of **permanent building society** in the Dictionary is to be construed as a reference to an authorised building society, and

- (c) the reference to a “building society” in the paragraph (e) of the definition of *prescribed property* is to be construed as a reference to an authorised building society.

15 Frustrated Contracts Act 1978 No 105

- (1) In section 6 (2) of the *Frustrated Contracts Act 1978* before its amendment by Schedule 6.10 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:
 - (a) the reference to a “credit union registered under the *Credit Union Act 1969*” in section 6 (2) (c) is to be construed as a reference to an authorised credit union, and
 - (b) the reference to a society registered under the “*Permanent Building Societies Act 1967*” in section 6 (2) (d) (iii) is to be construed as a reference to an authorised building society.
- (2) In section 6 (2) of the *Frustrated Contracts Act 1978* after its amendment by Schedule 6.10 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:
 - (a) the reference to a society registered under the “*Friendly Societies Act 1989*” is to be construed as a reference to a friendly society, and
 - (b) the reference to a society registered under the “*Financial Institutions (NSW) Code*” is to be construed as a reference to an authorised building society or an authorised credit union.

Note. Subclause (1) will apply to section 6 of the *Frustrated Contracts Act 1978* before the amendments to that section by the *Co-operative Housing and Starr-Bowkett Societies Act 1998* commence, and will cease to apply when those amendments take effect. Subclause (2) will apply to section 6 once those amendments take effect.

16 Government Guarantees Act 1934 No 57

In section 3 (2) (c) of the *Government Guarantees Act 1934* the reference to “any society within the meaning of the *Permanent Building Societies Act 1967*” is to be construed as a reference to a body corporate that was registered as a building society under the *Financial Institutions (NSW) Code* immediately before the transfer date.

17 Land Tax Management Act 1956 No 26

- (1) In the *Land Tax Management Act 1956* before its amendment by Schedule 6.13 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:
- (a) the reference in section 10G (1) (a) to a “permanent building society registered under the *Permanent Building Societies Act 1967*” is to be construed as a reference to a body corporate that was registered as a building society under the *Financial Institutions (NSW) Code* immediately before the transfer date, and
 - (b) the reference in section 10G (1) (b) to an “association registered under the *Permanent Building Societies Act 1967*” is to be construed as a reference to a body corporate that was registered as an association under the *Financial Institutions (NSW) Code* immediately before the transfer date.
- (2) In section 10G (1) of the *Land Tax Management Act 1956* after its amendment by Schedule 6.13 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*, the reference in the definition of **building society** to a “building society, or an association of building societies, registered under the *Financial Institutions (NSW) Code*” is to be construed as a reference to a body corporate that was registered as a building society or an association of building societies under the *Financial Institutions (NSW) Code* immediately before the transfer date.

Note. Subclause (1) will apply to section 10G of the *Land Tax Management Act 1956* before the amendments to the definition of **building society** in that section by the *Co-operative Housing and Starr-Bowkett Societies Act 1998* commence, and will cease to apply when those amendments take effect. Subclause (2) will apply to section 10G once those amendments take effect.

18 Local Courts (Civil Claims) Act 1970 No 11

- (1) In section 52A (1) of the *Local Courts (Civil Claims) Act 1970* before its amendment by Schedule 6.16 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:
- (a) the reference to a “society registered under the *Permanent Building Societies Act 1967*” in paragraph (a) of the definition of **building society** is to be construed as a reference to an ADI, and

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- (b) the reference to a “credit union registered under the *Credit Union Act 1969*” in paragraph (a) of the definition of **credit union** is to be construed as a reference to an ADI.
 - (2) In section 52A (1) of the *Local Courts (Civil Claims) Act 1970* after its amendment by Schedule 6.16 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:
 - (a) the reference to a “building society registered under the *Financial Institutions (NSW) Code*” in the definition of **building society** is to be construed as a reference to an ADI, and
 - (b) the reference to a “credit union registered under the *Financial Institutions (NSW) Code*” in the definition of **credit union** is to be construed as a reference to an ADI.

Note. Subclause (1) will apply to section 52A of the *Local Courts (Civil Claims) Act 1970* before the amendments to the definitions of **building society** and **credit union** in that section by the *Co-operative Housing and Starr-Bowkett Societies Act 1998* commence, and will cease to apply when those amendments take effect. Subclause (2) will apply to section 52A once those amendments take effect.

19 Public Authorities (Financial Arrangements) Act 1987 No 33

In clause 4 (1) (g), (h) and (j) of Schedule 4 to the *Public Authorities (Financial Arrangements) Act 1987*, a reference to a “building society” wherever occurring is to be construed as a reference to an authorised building society.

20 Stamp Duties Act 1920 No 47

- (1) In section 98 (1) of the *Stamp Duties Act 1920* before its amendment by Schedule 6.21 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*, the reference to a “society registered or incorporated as a building society, permanent building society” in the definition of **building society** is to be construed as a reference to an authorised building society.
- (2) In section 98 (1) of the *Stamp Duties Act 1920* after its amendment by Schedule 6.21 to the *Co-operative Housing and Starr-Bowkett Societies Act 1998*, the reference to a “building society registered under the *Financial Institutions (NSW) Code*” in the definition of **building society** is to be construed as a reference to an authorised building society.
- (3) In section 98 (1) of the *Stamp Duties Act 1920*, the reference to a society or other body of persons that is “registered or incorporated as

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a credit union or credit society, under the law in force in a State or a Territory relating to credit unions or credit societies” in paragraph (a) of the definition of **credit union** is to be construed as a reference to an authorised credit union.

- (4) In section 98A (1) (w) and (wa) of the *Stamp Duties Act 1920*, a reference to a merger or transfer of engagements between building societies or credit unions is to be construed as a reference to a transfer of business under the *Financial Sector (Transfers of Business) Act 1999* of the Commonwealth, despite the definitions of **merger** and **transfer of engagements** in section 98A (4).

Note. Subclause (1) will apply to section 98 (1) of the *Stamp Duties Act 1920* before the definition of **building society** in that section is amended by the *Co-operative Housing and Starr-Bowkett Societies Act 1998*, and will cease to apply when that amendment takes effect. Subclause (2) will apply to section 98 (1) once the amendment takes effect. The definition of **credit union** in section 98 (1) and the references to **merger** and **transfer of business** in section 98A are not affected by the *Co-operative Housing and Starr-Bowkett Societies Act 1998*.

21 Trustee Act 1925 No 14

The reference to the “*Financial Institutions (New South Wales) Code*” in section 21A (1) (b) of the *Trustee Act 1925* is to be construed as a reference to the *Financial Sector (Transfers of Business) Act 1999* of the Commonwealth.

22 Trustee Companies Act 1964 No 6

The reference to the “Australian Financial Institutions Commission established by the *Australian Financial Institutions Commission Act 1992* of Queensland” in section 36A (4) of the *Trustee Companies Act 1964* is to be construed as a reference to the Crown Solicitor.

BY AUTHORITY
