

EXPOSURE DRAFT

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer and Minister for Financial Services

Loans Securities Act 1919

Loans Securities Regulations 2025

Section 7 of the *Loans Securities Act 1919* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act, or for the conduct of any business relating to the issue, sale, transfer and dealing with securities to which the Act applies.

The Act includes activities related to debt instruments issued by the Commonwealth, permitting borrowing subject to certain conditions, when there is already an authority to borrow under the *Commonwealth Inscribed Stock Act 1911* (CIS Act). The Act was enacted to overcome doubts as to the sufficiency of the CIS Act to enable the borrowing of money in foreign currencies. The Act also gives the Treasurer the authority to enter into financial arrangements such as swaps and to enter into securities lending arrangements. Under the Act securities were issued in paper form, which are payable on presentation of the security.

The purpose of the Loans Securities Regulations 2025 (the Regulations) is to remake the Loans Securities Regulation 2015. The *Legislation Act 2003* (Legislation Act) provides that all legislative instruments, other than exempt instruments, progressively ‘sunset’ according to the timetable set out in the Legislation Act. When a legislative instrument sunsets, it is automatically repealed. The Loans Securities Regulation 2015 sunsets on 1 October 2025.

The Regulations are necessary to provide a mechanism for an applicant to seek payment for paper securities that have been lost, stolen or mutilated. The Treasurer must be satisfied of the applicant’s claim and the security must not have been previously paid. While securities are no longer issued in paper form under the Act, there are outstanding securities within their prescription period that have been issued in paper form.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. The Regulations are subject to disallowance and sunseting.

The Regulations commence on 1 October 2025.

Details of the Regulations are set out in Attachment A.

Details of the Loans Securities Regulations 2025

Section 1 – Name

This section provides that the name of the regulations is the Loans Securities Regulations 2025 (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commence on 1 October 2025. This is to coincide with the sunseting date of the previous Regulation to ensure no gap in the law.

Section 3 – Authority

The Regulations are made under the *Loans Securities Act 1919* (the Act).

Section 4 – Schedules

This section provides that each instrument that is specified in the Schedules to this instrument are amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms. Schedule 1 repeals the Loans Securities Regulation 2015.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

Section 5 – Definitions

This section provides definitions for the purpose of the Regulations.

Section 6 – Paying out lost, stolen, destroyed or mutilated securities

This section provides that an owner of a security may apply to the Treasurer for the payment of a paper security that has been accidentally lost, stolen, destroyed or mutilated prior to being paid off.

The Treasurer may authorise payment of the security, and any unpaid interest, where the Treasurer is satisfied that the security is lost, stolen, destroyed or mutilated. The owner of the security must also give an indemnity bond, to the satisfaction of the Treasurer, to indemnify the Commonwealth against the double payment of the security. This must also include any interest paid on the security. Payments made under this section are appropriated in accordance with section 4 of the Act.

Section 7 – Delegation

This section provides that the Treasurer may, in writing, delegate the powers and functions in this instrument to an SES employee in the Department, as such, this delegation includes

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SES employees in the Australian Office of Financial Management. Any delegate must comply with the directions of the Treasurer when exercising delegated powers or functions. Any delegations (including any directions to the delegate) are not legislative instruments, as set out in items 1 and 2 of the table in subsection 6(1) of the Legislation (Exemptions and Other Matters) Regulation 2015.

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