

EXPLANATORY STATEMENT

Select Legislative Instrument No. 37, 2018

Issued by the Authority of the Minister Trade, Tourism and Investment

Export Finance and Insurance Corporation Act 1991

Export Finance and Insurance Corporation Regulations 2018

The *Export Finance and Insurance Corporation Act 1991* (the Efic Act) established EFIC as a statutory corporation wholly owned by the Commonwealth. EFIC's mandate is to facilitate and encourage Australian export trade by providing insurance and financial services and products to persons involved directly or indirectly in export trade.

The *Export Finance and Insurance Corporation Regulations 1991* (the Regulations) are due to sunset on 1 October 2018 as set out in subsection 50(2) of the *Legislation Act 2003*. The Regulations set upper limits on EFIC's aggregate liabilities under loans, guarantees and insurance contracts that it may enter into on the Commercial Account, and EFIC operates within these limits.

The *Export Finance and Insurance Corporation Regulations 2018* reduce the upper limits for guarantees and insurance products and lift the upper limits for loans to better reflect EFIC's current business practises and expected future market needs. The revised limits reduce the aggregate limit (and liability on the Commonwealth) across all three categories by \$1.35 billion.

A review was undertaken which included testing whether the Regulations were fit for purpose. The review included extensive consultation within the Department of Foreign Affairs and Trade, EFIC, the Department of Finance and the Australian Government Solicitor. The review found the Regulations should be remade to ensure the Commonwealth could continue to manage its risks arising from EFIC-related liabilities and to prescribe limits in line with EFIC's current business practises.

The Office of Best Practice Regulation (OBPR) advised that a Regulation Impact Statement was not required as the proposal was "likely to result in minor regulatory impacts". The OBPR reference number for this matter is 23448.

Details of the Regulations are set out in [Attachment A](#).

The Regulation has been assessed to be compatible with human rights for the purposes of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility is set out in [Attachment B](#).

The Regulation commenced on the day after registration and is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

ATTACHMENT A



Export Finance and Insurance Corporation 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

Steven Ciobo
Minister for Trade, Tourism and Investment

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^1 Name

This instrument is the *Export Finance and Insurance Corporation 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 *Export Finance and Insurance Corporation Act 1991*.

^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 *Export Finance and Insurance Corporation Act 1991*.

^6 Maximum contingent liability under Part 4 of the Act

- (1) For the purposes of paragraph 68(1)(a) of the Act, the amount prescribed for contracts entered into and guarantees given under Part 4 of the Act (other than contracts of insurance entered into under section 22) is \$2.5 billion.

Note: Section ^8 provides for the conversion of amounts in foreign currency.

- (2) For the purposes of paragraph 68(1)(b) of the Act, the amount prescribed for contracts of insurance entered into under section 22 of the Act is \$1 billion

Note: Section ^8 provides for the conversion of amounts in foreign currency.

^7 Limit of total amount of loans under Part 4 of the Act

For the purposes of subsection 69(1) of the Act, the amount prescribed for money lent by EFIC under Part 4 of the Act and not repaid or written off is \$3 billion.

Note: Section ^8 provides for the conversion of amounts in foreign currency.

^8 Conversion of amounts in foreign currency

In calculations for the purposes of paragraph 68(1)(a) or (b) or subsection 69(1) of the Act, an amount in foreign currency is to be converted into Australian currency using:

- (a) the most recent exchange rate published by the Reserve Bank of Australia;
or
- (b) if the amount is in a currency for which the Reserve Bank of Australia does not publish an exchange rate—the current market exchange rate.

Schedule 1—Repeals

Export Finance and Insurance Corporation Regulations 1991

1 The whole of the instrument

Repeal the instrument.

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Export Finance and Insurance Corporation Regulations 2018

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The Export Finance and Insurance Corporation (EFIC) is the Australian Government's official export credit agency. This Instrument sets upper limits on the total amount of loans, insurance and guarantees provided by EFIC. The Instrument reduces the limits for guarantees and insurance products, and lifts the limits for loans in line with EFIC's current business and future market needs.

Human rights implications

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Steven Ciobo MP

Minister for Trade, Tourism and Investment