Financial Intermediaries Regulation 2018

Explanatory notes for SL 2018 No. 126

made under the

Financial Intermediaries Act 1996

General Outline

Short title

Financial Intermediaries Regulation 2018

Authorising law

Sections 245 - 247 of the *Financial Intermediaries Act 1996*

Policy objectives and the reasons for them

The *Financial Intermediaries Act 1996* (tFI Act) and the *Financial Intermediaries Regulation 2007* (2007 Regulation) provide for the regulation and operation of cooperative housing societies (societies) and prescribe administrative matters relating to the regulation of societies. Due to a number of factors, including the deregulation of the financial sector which saw a greater choice of loan providers and less stringent lending criteria, the number of societies has declined.

There have been no new societies registered since 2004. Most societies have been wound up; the one remaining society is expected to be wound up within six to 12 months.

Under the *Statutory Instruments Act 1992*, the Regulation is due to expire on 31 August 2018.

The objective of the *Financial Intermediaries Regulation 2018* is to continue for the operation, administration and regulation of the remaining society until it is wound up.

Achievement of policy objectives

The policy objective will be achieved by making the *Financial Intermediaries Regulation 2018*, which replaces the 2007 Regulation.

The 2007 Regulation is to be remade with the differential fee structure for filing documents be replaced with a nil fee for filing documents contained in Schedule 2. Under Queensland Treasury's "Principles for Fees and Charges" (the Principles) penalties and fines are imposed to regulate behaviour; fees are not used for this purpose. Under the Principles, fees of a regulatory nature should be charged on a full cost basis. In this , as no cost is charged for filing on time, this suggests that there is no or minimal cost associated with this activity. There is no additional cost to the registrar where documents are filed late. There is no justification for imposing an increased fee for late filing.

The section in the Regulation covering the resignation of auditors was also removed as all relevant powers are provided for in the Act.

All other alterations to the Regulation are considered to be minor (to reflect current drafting style) from its current form.

Consistency with policy objectives of authorising law

The *Financial Intermediaries Regulation 2018* is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

The *Financial Intermediaries Regulation 2018* is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

Given the Regulation has negligible regulatory burden and no significant adverse impacts, it is considered that the remake of the 2007 Regulation "as is" will not add to the regulatory burden and there are no significant adverse impacts given only one society remains.

The *Financial Intermediaries Regulation 2018* is administrative in nature. The benefit of implementing the replacement regulation is to ensure regulation continues to exist for the remaining society. The *Financial Intermediaries Regulation 2018* will not result in additional costs and, as a result, will not require allocation of additional funds for its implementation.

With no source of new funds and no new societies registered since 2004, the resources expended to cobntinue to regulate a sector that has assisted very few persons to buy a house over the last 14 years are relatively considerable. Queensland Treasury Corporation (QTC) has advised that one remaining cooperative housing society remains and is expected to be wound up within six to 12 months. Once this has occurred, it is intended the *Financial Intermediaries Regulation 2018* will be repealed.

Consistency with fundamental legislative principles

The *Financial Intermediaries Regulation 2018* is consistent with the fundamental legislative principles.

Consultation

Consultation regarding the *Financial Intermediaries Regulation 2018* has been undertaken with the Queensland Treasury Legal Services Unit, Office of Best Practice Regulation (OBPR) and Queensland Treasury Corporation (QTC).

OBPR advised that objectives for a sunset review have been met and no further assessment is required before the regulation can be remade. QTC expressed support for the remaking of the 2007 Regulation.