

# CEFC Submission to the Senate Environment and Communications Legislation Committee

## Inquiry into the provisions of the Clean Energy Finance Corporation Amendment (Grid Reliability Fund) Bill 2020

25 September 2020

### Introduction

The CEFC thanks the Committee for the invitation to make a submission to the *Inquiry into the provisions of the Clean Energy Finance Corporation Amendment (Grid Reliability Fund) Bill 2020*. The CEFC welcomes the Grid Reliability Fund and stands ready, willing and able to administer it. This Submission outlines how the CEFC would administer the GRF including the role of its Board, the exercise of its investment function and returns on investments.

### Background

The Clean Energy Finance Corporation (**CEFC** or **the Corporation**) is a Commonwealth corporate entity established with the object of facilitating increased flows of finance into the clean energy sector.<sup>1</sup> It does this by performing its investment function which is to invest, directly and indirectly, into clean energy technologies.<sup>2</sup>

'Clean energy technologies' is a term defined in the *Clean Energy Finance Corporation Act 2012 (CEFC Act)* as:

- Renewable energy technologies;
- Energy efficiency technologies; and
- Low-emission technologies.<sup>3</sup>

Investments must not be in a prohibited technology<sup>4</sup> and must be solely or mainly Australian-based.<sup>5</sup> The CEFC Act provides the Board is required to make guidelines that establishes the matters the Board will have regard to in determining what is an investment that is 'solely or mainly Australian-based' and what is a 'low-emission technology'.<sup>6</sup>

Investments for the purposes of the CEFC's investment function, made directly by the CEFC or directly by a subsidiary of the CEFC, must only be made by way of acquisition of financial assets.<sup>7</sup> The CEFC also has the power to guarantee repayment of a loan (including interest

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<sup>1</sup> *Clean Energy Finance Corporation Act 2012*, section 3.

<sup>2</sup> *Ibid*, sections 9, 58.

<sup>3</sup> *n1at* section 60.

<sup>4</sup> *n1at* section 62.

<sup>5</sup> *n1at* section 61.

<sup>6</sup> *n1at* sections 60, 61.

<sup>7</sup> *n1at* section 63.

on the loan) if the loan is one that could have been made by the CEFC in performing its investment function.<sup>8</sup> The CEFC may also acquire derivatives for limited purposes, including to achieve indirect exposure to financial assets (other than derivatives) for a purpose in connection with the CEFC's investment function, but must not acquire a derivative for the purpose of speculation or leverage.

The Board of the CEFC must take all reasonable steps to ensure that investments made by the CEFC are at all times complying investments under the CEFC Act, the CEFC complies with the Investment Mandate given by the CEFC's responsible Ministers, and any Board-made policies and definitional guidelines.

The CEFC Act provided for special appropriations of \$10bn.<sup>9</sup> From establishment on 3 August 2012 to 30 June 2020, the CEFC had made cumulative investment commitments of more than \$8bn in over 160 investments. As at 30 June 2020, the CEFC had some \$6bn in funds in the (on risk) portfolio - of which \$4.5bn was deployed in the market.

Under its Investment Mandate, the CEFC already has five specialised funds or funding programs set out in law. Unlike the proposed Grid Reliability Fund (**GRF**), these funds were all created by Investment Mandate, and are all funded from the CEFC's original \$10bn in appropriations made to the CEFC's Special Account. These funds or funding programs comprise:<sup>10</sup>

- the \$200m Clean Energy Innovation Fund (**CEIF**);
- the \$300m Advancing Hydrogen Fund (**AHF**);  
(both the CEIF and the AHF focus on early stage businesses and projects and hydrogen technologies. They have specific risk and return settings distinct from the CEFC's general mandate settings (the '**core fund**')
- the \$100m Australian Recycling Investment Fund (**ARIF**) which has a specific focus on recycling technologies, but identical risk and return settings to the CEFC's core fund;
- the \$1bn Reef Funding Program (**RFP**); and
- the \$1bn Sustainable Cities Investment Program (**SCIP**).

Both the RFP and the SCIP are effectively notional as they have near identical risk, return and technology settings to the core fund but have a locational aspect to them. That is, the RFP is effectively geographically limited to investments in the Reef Catchment area, and the SCIP (by agreement with the then Department of the Environment and Energy) is effectively geographically limited to Australia's 55 largest cities.

On 30 October 2019 the Prime Minister, Minister for Finance, and Minister for Energy and Emissions Reduction announced via media release the Australian Government's policy intent to create a Grid Reliability Fund.<sup>11</sup> In the announcement, it was made clear that eligible investments would include energy storage projects (including pumped hydro and batteries), transmission and distribution infrastructure and grid stabilising technologies.

On 27 August 2020 the Clean Energy Finance Corporation Amendment (Grid Reliability Fund) Bill 2020 (**GRF Bill** or **the Bill**) was introduced into the Parliament to effect the Australian Government's policy intent.

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<sup>8</sup> n1at, section 69.

<sup>9</sup> n1at sections 45-46.

<sup>10</sup> *Clean Energy Finance Corporation Investment Mandate Direction 2020*.

<sup>11</sup> ['\\$1 Billion Boost for Power Reliability'](#) (media release, accessed 11/09/2020).

## Administering the GRF

The Bill achieves the Australian Government's announced policy intent by increasing total special appropriations available to the CEFC by \$1bn, to be accounted for separately in a GRF Special Account.

Responsibility for administering some elements of the Underwriting New Generation Investments (**UNGI**) program may also pass from the Department of Industry, Science, Energy and Resources (**DISER**) to the CEFC.

To implement the Bill, the CEFC has established a Clean Futures Team that has been tasked with identifying and shaping longer term investable opportunities which would include tackling the complex projects of the type encompassed by the GRF.

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The CEFC has been provided with separate administrative funding paid out of the ordinary annual appropriations to cover administrative costs of the GRF.<sup>12</sup> The CEFC stands ready, willing and able to administer the GRF including UNGI elements which may fit within the CEFC Act and Investment Mandate.

The remainder of this Submission outlines how the GRF would be administered including with respect to the role of the CEFC Board, the exercise of its investment function and delivering returns on investments.

### 1. Role of the CEFC Board

The CEFC is a corporate Commonwealth entity under the governance regime of the *Public Governance, Performance and Accountability Act 2013* (Cth) (the **PGPA Act**) and is governed by an independent Board (the accountable authority under the PGPA Act).

As set out in the CEFC Act, Investment Mandate and the PGPA Act, the Board is accountable for investment decisions, independent of Government. As such, it has responsibility for overseeing the efficient and effective operation of the CEFC, including prudent oversight and governance of investment decisions and risk management.

The CEFC notes that, with respect to the GRF Bill, the Explanatory Memorandum states that it, "will not change the CEFC's ability to make individual investment decisions independent of Government".

### 2. Exercise of the CEFC's Investment Function

#### Clean Energy Technologies

The CEFC Act creates a number of requirements to guide the exercise of its investment function. For example, per section 60 of the CEFC Act, the CEFC may only make investments that are in "clean energy technologies" which include:

- Renewable energy technologies

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<sup>12</sup> Mid-Year Economic and Fiscal Outlook 2019-20 (December 2019) [https://budget.gov.au/2019-20/content/myefo/download/MYEFO\\_2019-20.pdf](https://budget.gov.au/2019-20/content/myefo/download/MYEFO_2019-20.pdf) at p218.

- Energy efficiency technologies
- Low emissions technologies

The CEFC Board has produced guidance on the definition of certain of these terms in its Complying Investment Guidelines on the CEFC website<sup>13</sup>.

The CEFC notes that the existing definitions of clean energy technologies have enabled the CEFC to make cumulative investment commitments of more than \$8bn. This has helped to drive more than \$27.3 billion in additional private sector investment commitments. These investments have – and will continue to - extend to all areas of our economy, including agriculture, energy, infrastructure, property, transport and waste. These investments have also extended to biogas, landfill gas, waste coal mine gas generation, cogeneration and trigeneration projects.

### 50% renewable energy technologies threshold

The CEFC Act also requires that it must ensure that, at any time on or after 1 July 2018, at least half of the funds invested at that time for the purposes of its investment function are invested in renewable energy technologies (section 58(3)).

Managing the 50% renewable energy technologies threshold is a major administrative and compliance burden for the CEFC that diverts agency resourcing from more productive activity. The reality of managing the '...must ensure, that at any time...at least half the funds invested' formulation found in the current sub-section 58(3) is that the CEFC must target a renewable energy threshold of 55% in order to be certain it stays above 50% at all times.

This is because the CEFC's portfolio of investments is fluid. Many individual investments exit the CEFC's portfolio after the project is constructed, derisked and earning stable proven revenues. The CEFC has no way of knowing in advance whether the projects that will refinance at any given point will be renewable energy technologies or other technologies.

In addition to targeting a 55% threshold to meet the requirements of sub-section 58(3), the CEFC must occasionally slow or cease investing in non-renewables, or sell current non-renewable investments down, just in order to maintain the threshold. In this way, the sub-section 58(3) requirement may impact the CEFC's ability to invest in energy efficient and low emission technologies that would otherwise be eligible for CEFC investment.

## 3. Delivering returns on investments

In accordance with Investment Policies formulated by the Board under section 68 of the CEFC Act,<sup>14</sup> the CEFC seeks to make targeted investments, to counter market failures, financing impediments and to generate positive public policy outcomes. In doing so, it carries out its investment activities while seeking to achieve a target Portfolio Benchmark Return and risk profile.

Reflecting its commercial focus, some \$1.66 billion in CEFC finance has been repaid or returned since inception, including a record \$942 million in 2019-20. All repayments have been in full and in many cases reflect refinancing from private sector lenders. In addition, there have not been any material loan losses at the CEFC since inception. These are

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<sup>13</sup> <https://www.cefc.com.au/media/402277/cefc-complying-investments-guidelines.pdf>

<sup>14</sup> <https://www.cefc.com.au/media/402017/cefc-investment-policies-feb-2019.pdf>

important examples of the CEFC's commitment to earn a positive return on its investments and invest responsibly on behalf of Australian taxpayers.

The CEFC's commercial focus is further evidenced by the fact that, in 2019–20 every CEFC dollar invested was matched by more than \$3 in investment from private sector capital. Since inception, every \$1 of CEFC finance has been matched by more than \$2.30 from the private sector.

The CEFC notes that the Explanatory Memorandum of the GRF Bill states that, "overall, it is important that the GRF as a whole provides a return to the Government". In doing so, the CEFC will continue to invest the GRF funds responsibly and manage risk prudently.

**[ENDS].**