



# National Reconstruction Fund Corporation Bill 2022

Submission to Senate Standing Committee on Economics

February 2023

## Introduction

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The Business Council of Co-operatives and Mutuals (BCCM) thanks the Senate Standing Committee on Economics for the opportunity to comment on the National Reconstruction Fund Corporation Bill 2022 (the Bill).

The members of the BCCM are active across many of the proposed priority areas for the National Reconstruction Fund (NRF) including agriculture and fisheries (e.g. Norco), advanced manufacturing and circular economy (Master Butchers Co-op), renewable energy (Hepburn Energy), transport and mobility (The NRMA) and defence and critical minerals (HunterNet).

The NRF represents an important opportunity to boost Australian manufacturing and supply chain resilience across these sectors and to move to a serious partnership model between purpose-led businesses, government and workers.

As a longstanding for-purpose business movement, co-ops and mutuals are an ideal partner for government. The overarching purpose of co-ops and mutuals is to generate economic and social value for the eight in 10 Australians and more than 160,000 businesses that are members, and the communities where those members live. Co-ops and mutuals:

- Are **long-term investors in domestic manufacturing** because their members are local
- **Increase the resilience of Australia's SMEs** in a range of industries by helping them reduce input costs, access markets and share in profits from value-adding activities such as manufacturing
- Are **domestically-owned and pay taxes domestically**
- **Earn vital export income** for Australia
- **Generate quality employment** across regional and metropolitan Australia
- **Enhance the function of markets** by being the consumer and small business focused challengers
- **Promote democratic values and practices** through member ownership and collaboration

Public investment in co-operatives and mutuals will maximise these outcomes and will also act to accelerate the maturation of markets for member, community and private investment in co-operatives and mutuals, addressing historical constraints on the growth of co-ops and mutuals.

The BCCM welcomed Labor's election commitment to ensure the NRF will be able to invest in co-ops and mutuals, including through Co-operative Capital Units and Mutual Capital Instruments. Our submission is focused on providing feedback on how the Bill can be designed to be enable the NRF to achieve this.

We also made a submission to the Department of Industry, Science and Resources consultation on the NRF, which has a broader focus on the policy barriers and opportunities the NRF should consider in relation to co-operatives and mutuals and more detailed information on the legal structured and investment instruments and mechanisms used in our movement. This submission is attached as an appendix.

We would be pleased to provide further information to the Committee on any matters raised in our submission.

## Comments on the Bill

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### **Definition of eligible corporations and entities for NRF investment**

The NRF will be able to invest in constitutional corporations and entities that carry out constitutionally-supported activities (cl63).

Under this approach, whereby detail on eligible investees is left to the Investment Mandate, it will be important that nothing in the Investment Mandate excludes a co-operative or mutual on the basis of its structure or legal registration alone. For example, to include all co-operatives and mutuals the Investment Mandate should be neutral in relation to the tax status of entities (i.e. not-for-profit, charitable, for-profit).

Furthermore, **the BCCM recommends that co-operatively and mutually-owned projects should be expressly recognised in the Investment Mandate as a focus for the NRF.**

### **Equity interest definition and co-operative and mutual shares and interests**

An equity interest is defined in the Bill (cl5) as:

- (a) A share in a company; or*
- (b) An interest in a trust; or*
- (c) An interest in a partnership; or*
- (d) An interest specified in the rules*

A company is defined in the Bill as a body corporate. Therefore, sub-clause (a) of the definition of an equity interest encompasses both shares in a company registered under the Corporations Act and shares in a co-operative registered under the Co-operatives National Law or the Co-operatives Act 2009 (WA). As such, the NRF will be able to invest in shares in a co-operative or mutual company, including shares that are Mutual Capital Instruments (s167AB Corporations Act 2001), and shares in a registered co-operative (s67 Co-operatives National Law).

However, sub-clause (a) is not inclusive of a Co-operative Capital Unit (CCU) in a registered co-operative. CCUs may be structured as equity (s345 CNL) but the NRF could only invest in CCUs if the rules set out in accordance with sub-clause (d) of the definition of an equity interest allowed this.

**The BCCM recommends that a new sub-clause is inserted into the definition of an equity interest to allow for investment in Co-operative Capital Units.** The following is an example of drafting that could be used:

- (a) A share in a company; or*
- (b) An interest in a trust; or*
- (c) An interest in a partnership; or*
- (d) A Co-operative Capital Unit in a co-operative; or*
- (e) An interest specified in the rules*

The NRF rules can, as they will likely do for other forms of shares and interests, set out further requirements or characteristics for CCUs to be considered as appropriate equity interests for the NRF to invest in.

Our submission to the Department of Industry, Science and Resources consultation on the NRF provides more detailed information on co-operative and mutual investment instruments that could be considered for the NRF rules.

### **Domestic ownership requirement**

The Bill requires that each investment must be 'solely or mainly Australian-based' and sets out in cl70 that the Board of the NRF will establish guidelines for how it determines an investment is solely or mainly Australian-based.

The BCCM believes that domestically owned projects should be a priority for the NRF as they are likely to create more social and economic value in Australia. Co-operatives and mutuals are one form of business that is almost always wholly domestically owned by members in the areas of Australia in which they operate. The member-owned structure of co-ops and mutuals means that they:

- Are long-term investors in domestic manufacturing because their members are local
- Increase the resilience of Australia's SMEs in a range of industries by helping them reduce input costs, access markets and share in profits from value-adding activities such as manufacturing
- Are domestically-owned and pay taxes domestically
- Earn vital export income for Australia
- Generate quality employment across regional and metropolitan Australia
- Enhance the function of markets by being the consumer and small business focused challengers
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**The BCCM recommends that cl70 of the Bill or a new clause should require that all investees are at least 50% Australian-owned.** The Board of the NRF will still be able to expand on requirements for investment in the guidelines in relation to both Australian-based and Australian-owned.

### **Investment reporting on ownership and structures of investees**

The Bill sets out the main requirements for investment reporting at cl82.

The BCCM believes measurement and reporting of the ownership and the legal/organisational structure of investees should be included in investment reporting because this is important information for policymakers and the public to evaluate the outcomes and impact of public investment through the NRF. This includes evaluation of the economic and social impact generated from investments in different ownership forms and the impact of diversification of ownership forms in the Australian economy.

**The BCCM recommends that an express requirement for investment reporting on domestic ownership and legal/ownership structure of investees is included in cl82.**