



## Class approval

### Foreign ADI disclosure statements

#### *Banking Act 1959*

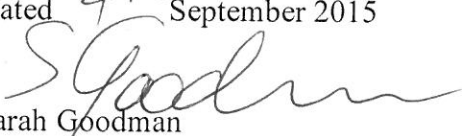
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I, Sarah Goodman, a delegate of APRA:

- (a) APPROVE, under paragraph 11E(2)(b) of the *Banking Act 1959* (the Act), the manner set out in the Schedule for a foreign ADI to inform a prospective depositor in Australia that the foreign ADI is not subject to the requirements of Part II, Division 2 of the Act; and
- (b) REVOKE each approval previously granted to a foreign ADI under paragraph 11E(2)(b) of the Act as of 1 April 2016, or such later date as may be approved by APRA in writing.

This instrument commences on 1 October 2015.

Dated <sup>4<sup>th</sup></sup> September 2015

  
Sarah Goodman  
Executive General Manager  
APRA

#### **Interpretation**

In this Approval:

**ADI** has the meaning given in subsection 5(1) of the Act.

**APRA** means the Australian Prudential Regulation Authority.

**foreign ADI** has the meaning given in subsection 5(1) of the Act.

*Note 1* By virtue of subsection 11E(1) of the Act, Division 2 of Part II of the Act does not apply to a foreign ADI. Under subsection 11E(2) of the Act, a foreign ADI is guilty of an offence if it accepts a deposit from a person in Australia, and, before accepting the deposit, the foreign ADI does not inform the person, in a manner approved by APRA, of the requirements of the Act to which the foreign ADI is not subject because of subsection 11E(1) of the Act.

*Note 2* This Approval relates solely to paragraph 11E(2)(b) of the Act. Separately, foreign ADIs must comply with any conditions in relation to the taking of deposits imposed on their authorisation to carry on banking business in Australia under subsection 9(4) of the Act.

## Schedule

- (a) Prior to the earlier of:
- (i) the opening of an account;
  - (ii) the transfer of an account from another person; or
  - (iii) the taking of an initial deposit,
- the foreign ADI must provide the person with a written disclosure statement (the Statement).
- (b) The Statement must be prominently displayed and clearly written in plain language.
- (c) The Statement must disclose, at a minimum, the following matters:
- *Provisions in the Banking Act 1959 for the protection of depositors do not apply to foreign ADIs including [insert name of the foreign ADI making this disclosure]. For example, depositors with foreign ADIs do not receive the benefit of the following protections:*
    - *Deposits are not covered by the financial claims scheme and are not guaranteed by the Australian Government.*
    - *Deposits do not receive priority ahead of amounts owed to other creditors.*

*This means that if a foreign ADI was unable to meet its obligations or suspends payment, its depositors in Australia would not receive priority for repayment of their deposits from the foreign ADI's assets in Australia.*
    - *A foreign ADI is not required to hold assets in Australia to cover its deposit liabilities in Australia.*

*This means that if the foreign ADI was unable to meet its obligations or suspends payment it is uncertain whether depositors would be able to access the full amount of their deposit.*