



DISCUSSION PAPER

Licensing: A phased approach to authorising new entrants to the banking industry

15 August 2017

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Executive summary

The Australian Prudential Regulation Authority (APRA) is an independent statutory authority established for the purposes of prudential supervision of financial institutions and for promoting financial system stability in Australia. In performing this role, APRA is responsible for, in particular, protecting the interests of depositors, insurance policyholders and most superannuation fund members¹ – collectively referred to as APRA’s beneficiaries. Protecting the financial interests of these beneficiaries lies at the centre of APRA’s mission.

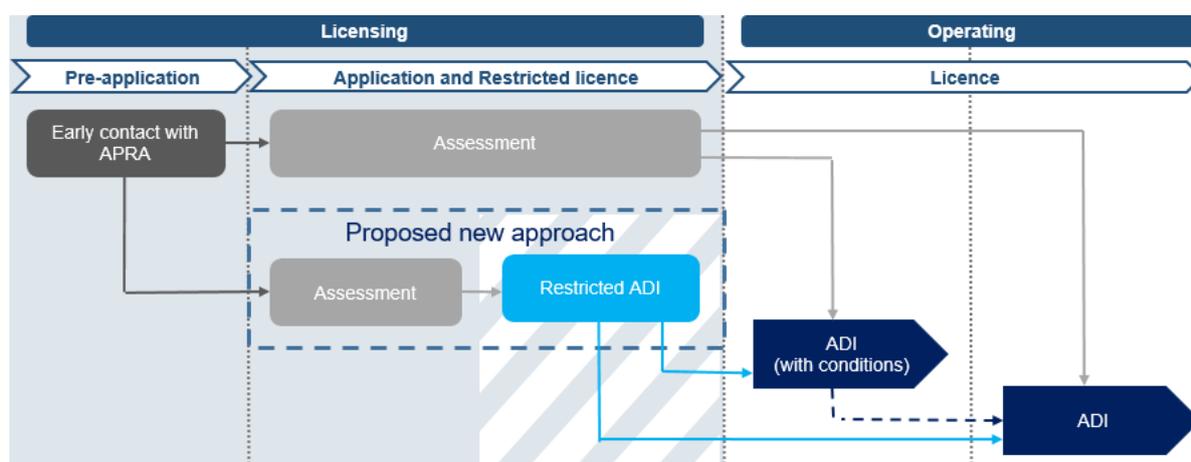
In undertaking this role, APRA seeks to not unduly hinder other desired objectives of promoting efficiency, competition, contestability and competitive neutrality in the financial system. In licensing new entrants to the prudentially-regulated segments of the financial system, APRA aims to achieve an appropriate balance between financial safety and these other considerations.

Phased approach for licensing ADIs

APRA has been reviewing its approach to licensing new entrants, with a view to making it easier for potential applicants to understand and navigate the licensing process while at the same time not materially lessening entry standards that serve as important protections for the Australian community.

As an initial step, to make its existing processes more efficient and effective, APRA is proposing to introduce a phased approach to licensing new entrants to the banking industry. This will include the introduction of a Restricted ADI licence, for certain applicants seeking to become authorised deposit-taking institutions (ADIs). Depending on feedback and experience with this approach, APRA envisages that it will consider a similar phased approach in other prudentially-regulated sectors in due course.

An illustrative overview of the proposed phased approach to licensing ADIs is depicted below and discussed in Chapter 4.



¹ APRA does not regulate self-managed superannuation funds as these are supervised by the Australian Taxation Office.

The phased approach is intended to support increased competition in the banking sector by reducing barriers for new entrants being authorised to conduct banking business, including those with innovative or otherwise non-traditional business models or those leveraging greater use of technology. In particular, the purpose of the Restricted ADI licence is to allow applicants to obtain a licence while still developing the full range of resources and capabilities necessary to meet the prudential framework. However, APRA still needs to preserve community confidence that deposits with all ADIs are adequately safeguarded. APRA also needs to ensure that any new approach does not create competitive advantages for new entrants over incumbents, or compromise financial stability. Therefore, reflecting their relative infancy, Restricted ADIs will be strictly limited in their activity and would not be expected to actively conduct any banking business during the restricted period.

Eligibility - Under the phased approach, certain applicants may be eligible for a Restricted ADI licence while they build up their capabilities and resources to fully meet the prudential framework and progress to be an ADI. APRA envisages that the Restricted ADI licence would appeal more to start-ups with limited financial resources and (at least initially) a simple product set.

Initial requirements - Restricted ADI licence applicants will need to meet minimum requirements, however APRA proposes to streamline the supporting information and requirements in comparison to that typically required for a full ADI licence.

Prior to the granting of a Restricted ADI licence, APRA will need to assess information on the applicant's structure, ownership, governance, and business plan. Applicants will also need to provide details of their strategy to fully meet the prudential framework, and an exit plan should the strategy be unsuccessful. Applicants will need at least \$3 million plus wind-up costs as a minimum amount in start-up capital, and directors and senior management will need to meet APRA's fit and proper standards. Additionally, applicants will need to demonstrate the capability to deliver reliable records or systems to provide information necessary for the Financial Claims Scheme (FCS).

Ongoing requirements - APRA proposes that certain prudential requirements will not be fully applicable to an institution with a Restricted ADI licence. Given the concessions provided, APRA proposes to apply alternative requirements and expects that a Restricted ADI will not be actively conducting banking business. Such requirements would include a limit on the maximum size of deposits from a single depositor (\$250,000) and on the aggregate amount of deposits (\$2 million); minimum capital adequacy and liquid holdings; restricted product and service offerings; and reporting and disclosure requirements. These restrictions are necessary to ensure the Restricted ADI has sufficient capacity to test and develop its products and systems, but does not create significant risk to depositors or create competitive advantages for new entrants over incumbents. It also creates an incentive for a Restricted ADI to complete its business and systems development and progress to full operation.

Maximum period - An important part of the phased approach is the expectation that a Restricted ADI licence holder will progress to an ADI licence. APRA is therefore proposing to limit the Restricted ADI licence period to a maximum of two years. This period reflects the expected timeframe that institutions may need to fully meet the prudential framework. APRA will be assessing the institution's progress during the Restricted ADI licence phase. Should it become clear that an institution will not fully develop its capabilities and resources by the end of the Restricted ADI licence phase, APRA will require it to exit the banking industry.

Glossary

ADI	Authorised Deposit-taking Institution.
ADI licence	An ADI licence, with or without conditions, authorising the ADI to conduct banking business under the <i>Banking Act 1959</i> (the Banking Act).
APRA	Australian Prudential Regulation Authority.
Banking business	Part 5 of the Banking Act defines ‘banking business’ as consisting of both taking deposits (other than as part-payment for identified goods or services) and making advances of money, as well as other financial activities prescribed by regulations made under the Banking Act.
FCS	The Financial Claims Scheme (FCS) is an Australian Government scheme that provides protection to deposits held at ADIs, and to policies with general insurers, in the unlikely event that one of these financial institutions fails.
Fintech	Fintech refers to technology-enabled innovation in financial services.
Industry Acts	Industry Acts refers to the <i>Banking Act 1959</i> , <i>Life Insurance Act 1995</i> , <i>Insurance Act 1973</i> , <i>Private Health Insurance (Prudential Supervision) Act 2015</i> and <i>Superannuation Industry (Supervision) Act 1993</i> .
Licence / licensing	<p>The various Industry Acts require institutions to be granted authority by APRA or registered by APRA to conduct regulated business within Australia.</p> <p>For the purposes of this paper, licence refers to the legal instrument by which APRA grants authority or registers the institution. Licensing refers to the process by which APRA grants the authority or registers the institution.</p>
Prudential framework	Prudential framework refers to the legislation, prudential standards and prudential guidance for each respective industry that is applicable to a regulated institution.
Prudential requirements	In the context of this paper, the term ‘prudential requirements’ refers to the requirements in the prudential framework and applicable reporting requirements under the <i>Financial Sector (Collection of Data) Act 2001</i> .
Restricted ADI licence	A Restricted ADI licence authorises an ADI subject to specific requirements and limitations on the business it can conduct.

Chapter 1 Introduction

Financial institutions that take customer deposits, underwrite insurance policies or are responsible for the superannuation funds of Australians, occupy a unique position of trust within the community. The financial safety of these institutions is key to the financial stability and economic well-being of the community and, as a result, these institutions are subject to higher standards than in many other sectors of the economy. This includes higher entry standards to the industry, such as legislation which requires APRA to license an institution before it can conduct business in a prudentially-regulated sector.²

The process of granting a licence is intended to help ensure that new entrants will be able to honour the financial promises they make to APRA beneficiaries in all reasonable circumstances. A licence is granted where an applicant is assessed as being able to meet the standards required by the prudential framework. These requirements include governance and risk management capabilities and sufficient financial resources to conduct business in a prudent manner.

It is important, however, that the licensing approach does not present an undue impediment to contestability or other competitive dynamics. Competition can bring many benefits, such as generating greater choice, lower prices and better quality financial products and services for consumers.

This discussion paper seeks views on options to refine APRA's licensing approach to better accommodate new entrants to the banking industry, including those with innovative or otherwise non-traditional business models or those leveraging greater use of technology. These proposals align with global trends whereby regulatory agencies have introduced, or are in the process of considering, changes to their licensing frameworks to adjust to the changing nature of financial services providers in their jurisdictions.

In reviewing APRA's licensing approach and the proposals for a phased approach to ADI licensing, APRA has sought to find an appropriate balance between the objectives of financial safety and efficiency, competition, contestability and competitive neutrality, whilst promoting financial system stability. On balance, APRA considers that the impact of these proposals to financial system stability is negligible whilst potentially achieving enhancements in competition and efficiency in the banking industry.

² Certain industry acts require APRA to 'authorise' or 'register' an institution before it can operate in a prudentially-regulated industry. For the purpose of this discussion paper, the term 'licence' includes authorisation and registration.

PRIMARY OBJECTIVES	
Financial safety 	Financial system stability 
<p>Marginally reduced. Some reduction in overall financial safety is expected due to the higher risk of failure in the population of Restricted ADIs. However the eligibility criteria and restrictions proposed are expected to minimise the risk to depositors of these Restricted ADIs.</p>	<p>Unchanged. The eligibility criteria and restrictions proposed on Restricted ADIs are expected to limit the impact of any potential increase in the rate of failure or overall financial stability.</p>
OTHER CONSIDERATIONS	
Efficiency 	<p>Enhanced. Changes to APRA's broader licensing approach, including the establishment of a centralised licensing unit, are expected to make the licensing process more proportionate and efficient for all applicants.</p>
Competition 	<p>Enhanced. The proposed phased approach to licensing ADIs is expected to provide a streamlined approach for new and innovative entrants to the banking industry, thereby increasing competition for the benefit of the sector and end-consumers.</p>
Contestability 	<p>Enhanced. The proposed changes are expected to help ensure that the licensing approach does not act as an undue constraint to potential new entrants, particularly those which are small in size or employ non-traditional business models.</p>
Competitive Neutrality 	<p>Marginally reduced. The proposed phased approach to licensing is targeted at a specific contingent of potential applicants – specifically those who need time to build resources and capabilities. Well-resourced and established institutions will not be expected to be eligible. While the proposed approach is not competitively neutral, it balances some of the resource and capability advantages held by established financial institutions over start-ups. The impact on competitive neutrality is materially tempered by the fact that the restrictions placed on Restricted ADIs are intended to limit their business activities and are time bound. Phased applicants must progress to fully meet the prudential framework or they will need to exit from the industry.</p>

Chapter 2 Overview of licensing at APRA

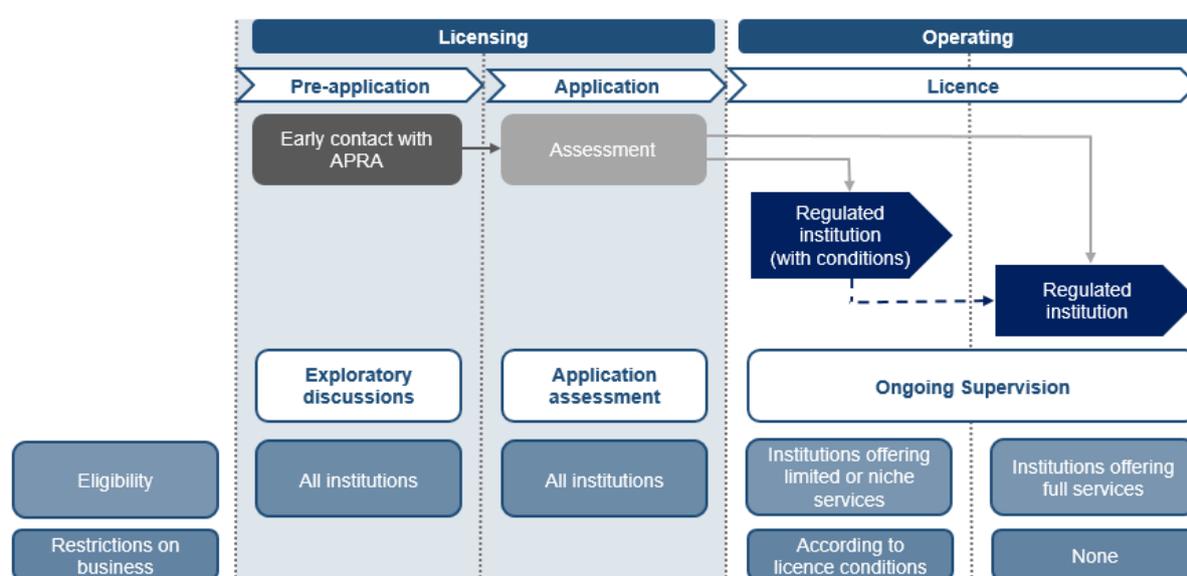
This chapter provides an overview of APRA's current approach to licensing, information on how this approach aligns internationally and data related to APRA's licensing activities.

2.1 APRA's existing licensing approach

APRA's approach to licensing has generally supported achieving the community's expectations regarding the financial safety of licenced institutions and financial system stability.

The existing approach to licensing is illustrated in Figure 1 and described below.

Figure 1: Existing licensing approach



2.1.1 Pre-application — early contact with APRA

Discussions with potential applicants in the early stages of considering a licence application are generally highly beneficial for both the institution and APRA.

Early contact provides an opportunity for the potential applicant to ask questions and for APRA to clarify what the institution will need to do to obtain a licence. It assists the institution in understanding APRA's expectations and the licensing process.

Early contact also enables APRA to gain an understanding of the institution's proposals and raise any likely issues or concerns as soon as possible. This can inform whether or not an institution proceeds to an application and its approach to developing its application. For example, early discussions with potential applicants have on occasions highlighted that the intended business does not need a prudential licence to proceed.

2.1.2 Application — assessment

When an institution is ready, it submits a licence application to APRA. Submission of an application involves:

- providing a set of information evidencing that the institution meets the relevant prudential requirements set out in the prudential framework. APRA provides guidance on the material to be included in applications for each industry on its website.³
- payment of an application fee. The application fee is a non-refundable, set amount to cover the cost of the resources required by APRA to assess a typical application.

Once an application is received, the applicant is appointed a Responsible Supervisor who is involved in assessing the application. The Responsible Supervisor will usually be the ongoing supervisor of the institution once a licence is granted.

In assessing the application, APRA seeks to understand the risks the institution will face and the institution's capabilities in addressing those risks. APRA seeks to be confident that if a licence is granted the institution will be financially sound, manage its risks effectively, that the board and management are fit and proper and the institution will not pose a risk to financial safety or the stability of the financial system.

During the assessment period, APRA reviews the information provided in the application and may request additional information, hold meetings with the institution or review aspects of the institution's operations onsite. APRA has traditionally licensed a new institution when it is satisfied that the applicant will meet all the requirements of the prudential framework, proportionate to the size and complexity of the entity, from the time the licence is granted.

The time taken for APRA to assess an application varies in each case. It is dependent on the quality of the application submitted, the complexity of proposed arrangements and how responsive the institution is to meeting APRA's requests during the assessment period.

2.1.3 Licence - regulated institution

The Acts that provide for prudential regulation of certain industries restrict participants in the industry to institutions that are licensed, either through registration or authorisation to conduct regulated business. Once licensed, the institution must meet the requirements of the relevant prudential framework at all times.

Licensed institutions are subject to ongoing supervision by APRA. This includes providing APRA with regular information as well as onsite supervisory reviews and other interactions with APRA. Licensed institutions are subject to an annual levy, which funds APRA's operational costs.

Licence with conditions

Where an institution has a limited business model, APRA may impose conditions on the institution's licence. For instance, conditions may limit the lines of business the institution is

³ Refer to the respective industry pages on APRA's website www.apra.gov.au. For instance, guidance for ADIs is available at <http://www.apra.gov.au/adi/Pages/adi-authorisation-guidelines.aspx>.

permitted to offer, such as in the case of a foreign bank branch or providers of purchased payment facilities.

APRA would be likely to impose such conditions where the licence assessment was undertaken relative to an applicant's business plan for a limited service offering. In this case, APRA may focus its assessment on the institution's ability to meet the aspects of the prudential framework relevant to the proposed business only, and may not assess some aspects that would be applicable to a broader service institution. Given this, a condition would be placed on the licence.

An institution that has conditions on its licence can continue to operate indefinitely within the bounds of those conditions. The institution could approach APRA at a later stage to consider removing or amending its conditions if it wished to expand its business. The institution would need to evidence, to APRA's satisfaction, that it is able to meet the aspects of the prudential framework relevant to the expanded business model prior to APRA granting its consent for conditions to be removed or amended.

2.2 Comparison with international approaches

There are international standards for licensing prudentially-regulated institutions.⁴ APRA's existing licensing approach is generally aligned with these standards.

Other jurisdictions have a range of licensing approaches. These are also generally aligned to international standards and are not fundamentally dissimilar to APRA's approach. In recent years, however, a number of jurisdictions have introduced a variety of changes to facilitate new entrants or encourage innovation. This includes variations of phased approaches or 'sandboxes' which allow eligible institutions the ability to test new products or services under various conditions.

Table 1: Examples of approaches in other jurisdictions

Hong Kong	The Hong Kong Monetary Authority (HKMA) has introduced a sandbox available to authorised institutions.
Singapore	The Monetary Authority of Singapore (MAS) has introduced a sandbox available to all financial institutions and Fintech entities.
United Kingdom	The Prudential Regulation Authority (PRA), together with the Financial Conduct Authority (FCA), has introduced a two-phased authorisation option. (see Box 1)

⁴ For example, Principle 4 *Permissible activities* and Principle 5 *Licensing Criteria* of the Basel Committee for Banking Supervision (BCBS) *Core Principles for Effective Banking Supervision*.

Box 1: The UK approach

As part of 'A review of requirements for firms entering into or expanding into the banking sector', published in 2013, the PRA and FCA introduced an alternative route to becoming a fully operational bank. The UK approach involves the new bank being authorised at an earlier stage to help it secure further investment, recruit staff, invest in IT systems and commit to third-party suppliers etc with the certainty of being authorised. In return, the UK regulators limit the amount of business the new bank can undertake until it is fully operational. This is referred to as the mobilisation route. Mobilisation is also sometimes referred to as Authorisation with Restriction or AWR.

Typically institutions in mobilisation are subject to:

- a minimum capital requirement of the higher of £1 million or €1 million plus wind up costs,
- a £50,000 cap on the level of deposits that the bank can accept; and
- a 12 month period in which to be fully operational and exit mobilisation.

2.3 Licensing experience

In the period since 2007, APRA has issued 93 new licences. The majority of these have been foreign entrants that have established banking or insurance operations in Australia.

Table 2: Number of new entrants over the last 10 years

Type of applicant	Total	Number of authorised institutions*
Authorised deposit-taking institution	26	149
General insurer	30	104
Life company	3	41
Private health insurer ⁵	6	37
Registerable superannuation entity (RSE) licensee	12	139
Representative office in Australia	16	13
Total number of authorisations	93	483

* Number of authorised institutions as at 30 June 2017.

⁵ The number of private health insurers licenced since 2007 includes those licenced by the Private Health Insurance Administration Council (PHIAC). APRA took over the responsibility for the prudential supervision of private health insurers from PHIAC on 1 July 2015.

Chapter 3 Changes to APRA's licensing approach

This chapter provides an overview of proposed changes to APRA's licensing approach.

3.1 APRA's licensing team

APRA recently established a centralised licensing team to manage the licensing of new entrants to APRA-regulated industries. Previously APRA utilised a decentralised approach in which frontline supervisors and risk specialists across the organisation were responsible for individual licence applications. This approach was designed to ensure that the supervisory staff ultimately responsible for supervising an institution were heavily involved in assessing its application, thereby developing a sound understanding of its operations for the benefit of its ongoing supervision.

The new centralised team will manage all new licence applications, partnering with frontline supervisors and risk specialists to fulfil this responsibility. This approach is expected to deliver a number of enhancements:

- Strengthened engagement – a central point for engagement on all licensing matters from pre-application assistance through to licence approval.
- Improved efficiency – assessment times may shorten, as for example, the central team will be able to check consistency of assessments more quickly.
- Enhanced transparency – through reviewing APRA's guidance in order to ensure the content is up to date, accessible and effective in introducing prospective applicants to the licensing process.
- Building of expertise including in respect of non-traditional business models – ongoing engagement and centralisation of expertise should enhance APRA's ability to assess licence applications including from non-traditional applicants.

These enhancements are expected to deliver efficiencies and enhance the licensing process for new applicants across all APRA-regulated industries.

3.2 Overview of proposed changes to the approach to licensing ADIs

This discussion paper proposes the introduction of a phased approach to licensing new entrants to the banking industry. The aim of the phased approach is to allow institutions time to build their capabilities and evidence to APRA that they meet the full prudential framework. The appropriateness of the phased approach will depend on the nature of business, maturity of the applicant's business and capability to meet the prudential framework. Further detail on the proposals is provided in the following chapter.

3.3 Future consideration of the approach to licensing other regulated industries

The proposed phased approach for ADIs has been based on experience in other jurisdictions, which has facilitated new entrants to the banking industry without undue risk to the financial system. During the process of implementing the phased approach to ADIs, APRA will assess and consider whether the approach meets its intended objectives in Australia, and whether a similar approach should be applied to other prudentially-regulated industries.

3.4 Broader Government announced changes

The Australian Government has announced, as part of the 2017 Federal Budget, that it will review criteria in the Banking Act restricting the use of the term 'bank' and consider temporary exemptions from the prescribed ownership limits within the *Financial Sector (Shareholdings) Act 1998*. On 17 July 2017, the Government released draft legislation for public consultation removing restrictions on the use of the term 'bank' by ADIs.⁶

This paper does not address these proposed amendments, however, APRA will continue to liaise with the Government and The Treasury and incorporate the necessary changes to its licensing process, as appropriate.

⁶ <https://treasury.gov.au/ConsultationsandReviews/Consultations/2017/Reducing-barriers-to-new-entrants-to-the-banking-sector/>

Chapter 4 A phased approach to licensing ADIs

Under the Banking Act, institutions that wish to conduct banking business in Australia must apply to APRA for the authority to do so. This chapter provides detail on APRA's proposed phased approach to licensing ADIs.

4.1 Purpose of phased licensing

Section 8 of the *Australian Prudential Regulation Authority Act 1998* establishes APRA's role: to maintain the financial safety of institutions it regulates and to promote financial stability in Australia for the benefit of the Australian community. In doing so, APRA must balance financial safety with efficiency, competition, contestability and competitive neutrality.

New entrants provide opportunities to enhance competition and innovation in the banking industry. However, evidencing that it can meet all of the requirements of the prudential framework prior to conducting business can be difficult for a new applicant, particularly in the case of new and non-traditional institutions. APRA is therefore proposing to enhance opportunities for new entrants through the introduction of a phased approach to licensing ADIs.

At this stage APRA is proposing to limit the introduction of this approach to the banking industry for a number of reasons:

- APRA has seen an increased appetite in applicants with innovative banking business models.
- Feedback suggests that perceptions of licensing barriers are higher in the banking industry.
- APRA is able to consider the experience of other jurisdictions in implementing changes in the banking industry when formulating its approach.
- APRA considers that new entrants to the banking industry should be able to establish clear mechanisms to exit the industry in a manner which more readily protects depositors, does not threaten financial system stability and avoids reliance on the Financial Claims Scheme⁷ (FCS) or use of APRA's crisis management powers.

In addition, the FCS provides an important last resort safety net protecting depositors if an ADI fails.

⁷ The Financial Claims Scheme is an Australian Government scheme and can only come into effect if it is activated by the Australian Government when an institution fails. A failed institution is one that is insolvent and can no longer pay its debts when they become due and payable.

4.2 A phased approach to licensing ADIs

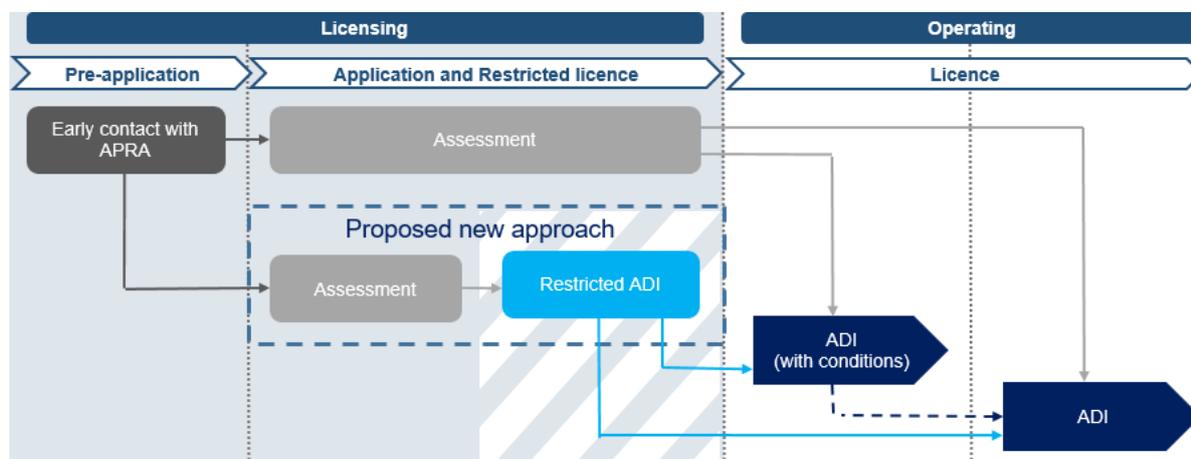
The proposals introduce a range of pathways to becoming an ADI in recognition that a flexible approach will assist with the variety of applications APRA receives.

APRA proposes as part of the phased approach to offer an additional Restricted ADI licence entry point for a new ADI. The entry point for an applicant will depend on the nature of business contemplated and maturity of the applicant's business and capability to meet the requirements of the prudential framework.

1. **Restricted ADI licence** - the proposed new temporary phase - an appropriate entry point for institutions who require time to build resources and capabilities before progressing to an ADI licence (with or without conditions).
2. **ADI with conditions** - this licence exists in APRA's current approach - it allows an ADI to operate within certain conditions and is generally appropriate for ADIs with limited or niche business models.
3. **ADI** - this is the most common ADI licence - the appropriate licence for applicants with resources and capabilities to offer broad banking services.

The three entry points are depicted in Figure 2.

Figure 2: The proposed new phased approach



Box 2: Who needs an ADI licence?

Under the Banking Act, it is an offence to conduct banking business in Australia without the proper authority. If an institution is intending to conduct any business that can be classed as banking business it needs an ADI licence from APRA giving it the authority to conduct banking business in Australia.

Part 5 of the Banking Act defines 'banking business' as consisting of both taking deposits (other than as part-payment for identified goods or services) and making advances of money, as well as other financial activities prescribed by regulations made under the Banking Act.

Some common examples of when an ADI licence would not be applicable are given below.

Institution A borrows money and provides finance to individuals – an ADI licence is not required, this is because under the Banking Act an institution must both take deposits and make advances of money. As Institution A is only advancing money it is not conducting banking business so an ADI licence is not required. (However, Institution A may need to be registered under the *Financial Sector (Collection of Data) Act 2001*, depending on the nature of the business undertaken.)

Institution B is working in partnership with Institution C to offer a bank account and personal loans. Institution B is providing all of the branding, customer interface technology and customer support whilst Institution C is providing the bank account and the financing for the personal loans. Institution B would not need an ADI licence as it is not conducting banking business. The banking business of accepting deposits and advancing money is being provided by Institution C, which needs an ADI licence. (However, section 66 of the Banking Act would apply to Institution B. Institution B would not be permitted to refer to itself as a bank and would need to make clear that the bank products were being provided by Institution C.)

4.3 Restricted ADI licence

Restricted ADI licences would be granted to eligible applicants to enable them to build and operationalise their resources and capabilities in a restricted environment without fully meeting all aspects of the prudential framework. Restricted ADI licence holders would still be required to meet other Australian legislative and regulatory requirements that apply to them.⁸

This will allow eligible applicants to obtain a Restricted ADI licence at an earlier stage of their business development. The Restricted ADI would be allowed to operate, but within restrictions designed to maintain appropriate levels of financial safety, stability and

⁸ For example, the *Corporations Act 2001* and relevant Australian Securities and Investments Commission (ASIC) and Australian Transaction Reports and Analysis Centre (AUSTRAC) requirements.

competitive neutrality, while it progresses to fully meet the aspects of the prudential framework relevant to its proposed business, and ultimately securing an ADI licence.

This phased approach is expected to assist a range of applicants, including those with non-traditional business models and start-up institutions, to become ADIs. Applicants with adequate resources and capabilities may still progress straight to an ADI licence.

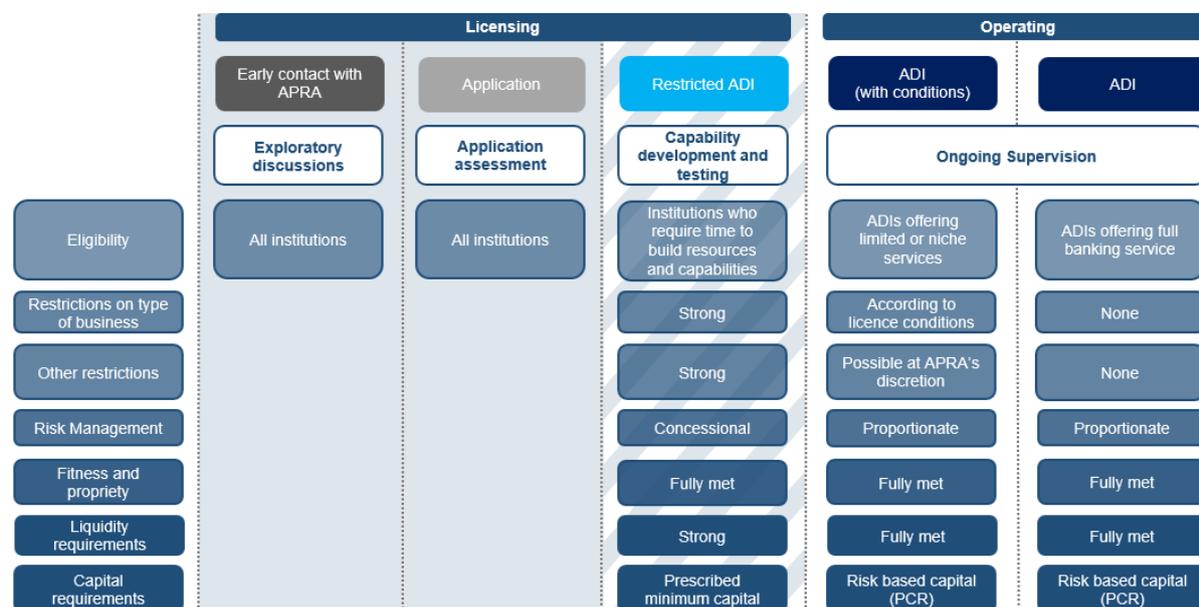
The Restricted ADI licence would be granted for up to two years on the basis that during this period the applicant would sufficiently develop its risk management frameworks, capabilities, systems and financial resources to meet the full prudential framework.

At the end of the two year Restricted ADI licence phase the institution would either transition to an ADI licence (with or without conditions) or exit the banking industry.

APRA also needs to ensure that the community expectation that deposits placed with all ADIs (including new entrants) are adequately safeguarded, is met. Furthermore, APRA aims to avoid compromising financial system stability or creating competitive advantages for a group of ADIs– for example for small new entrants over small incumbent ADIs. To this end APRA proposes it will apply restrictions to mitigate these risks.

The summary of requirements for an ADI in different phases are summarised in Figure 3.

Figure 3: Summary of requirements in different phases



4.3.1 Restricted ADI licence: Early contact with APRA — eligibility assessment

Engagement of APRA with applicants in the early contact phase would be the same regardless of which entry point is most suited to the applicant. Discussions in this early contact phase would clarify the appropriate entry point for the applicant, including the potential eligibility for the Restricted ADI licence.

APRA proposes that the applicants that will be eligible for the Restricted ADI licence are those that require the time to build resources and capabilities in order to meet APRA's full prudential framework.

APRA expects such institutions are likely to be small and in their formative years of operation. APRA also expects the Restricted ADI licence to be most applicable to applicants that are independent of established prudentially-regulated institutions. APRA considers such applicants are likely to face the greatest difficulty in demonstrating the necessary capabilities required to meet APRA's prudential framework.

The potential population of eligible applicants could include fintech and traditional start-ups, institutions with non-traditional business models and existing non-ADI financial institutions looking to enter the banking industry.

The proposals involve some concessions to the ADI prudential framework for prospective entrants that need time to develop the capabilities to fully meet the framework. APRA therefore proposes that the Restricted ADI licence only be available to applicants whose proposed activities during the restricted licence phase are considered to be low risk.

APRA does not intend to apply strict criteria to identify institutions which may qualify for a Restricted ADI licence. However, institutions which possess the resources and capability to apply for an ADI licence would not be expected to be eligible for the Restricted ADI licence.

Applicants that are well-established corporations or prudentially-regulated institutions such as subsidiaries of foreign banks would typically have greater access to the resources and capabilities to enable them to fully meet the requirements of the prudential framework prior to obtaining a licence. APRA also considers that a Restricted ADI licence would hold less appeal for these institutions given the proposed restrictions.

4.3.2 Restricted ADI licence: Application and assessment

To apply for a Restricted ADI licence, applicants would be required to submit a reduced set of application documentation relative to an ADI licence application (see figure 4).⁹ The application will focus on key essential elements such as business case, key senior appointments, approach to governance and risk management and information relating to proposed activities. If the information provided is of sufficient quality, APRA expects to be able to grant a Restricted ADI licence more quickly than would be the case if an ADI licence was sought.

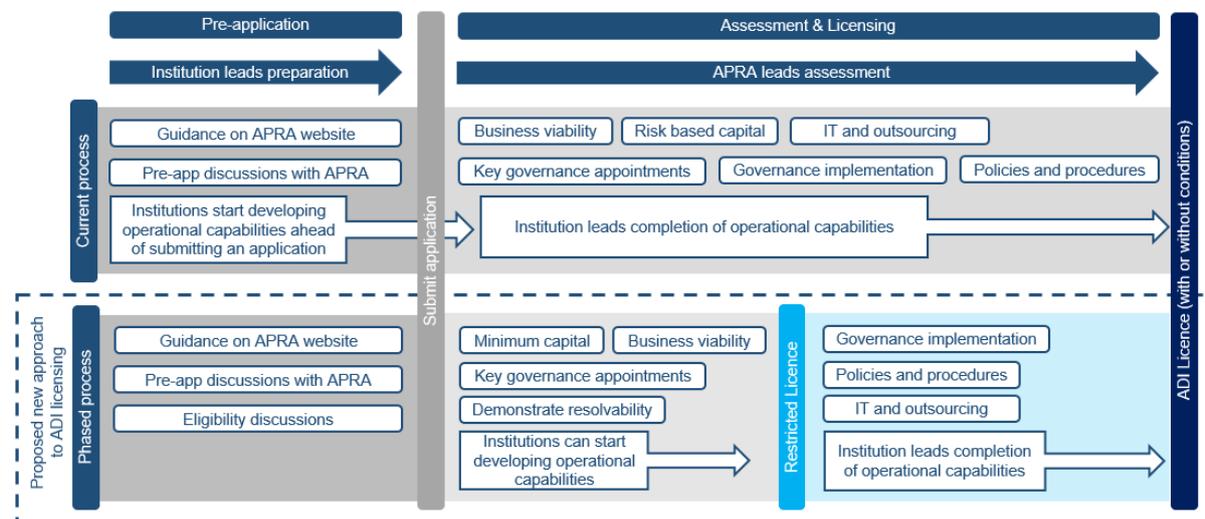
Regardless of the entry path chosen, the application fee will remain the same. This reflects the ongoing assessment needed until the applicant is ready to progress to an ADI licence.

Once a Restricted ADI licence has been granted, the institution will be an APRA-regulated institution and will be subject to an annual levy under the *Authorised Deposit-taking*

⁹ The supporting documentation required for a standard ADI licence is outlined in APRA's ADI Authorisation Guidelines. The guideline is available at <http://www.apra.gov.au/adi/Pages/adi-authorisation-guidelines.aspx>

*Institutions Supervisory Levy Imposition Act 1998.*¹⁰ The industry levies are imposed to ensure the full cost of regulation is recovered from those that benefit from it (that is, institutions who are regulated).

Figure 4: Comparison of licensing process between current and phased approaches



4.3.3 Restricted ADI licence: Initial requirements

While the applicant will not be expected to fully meet the requirements of the prudential framework, applicants will need to meet certain initial requirements before a Restricted ADI licence is granted. These requirements will be addressed in the application and it will be the applicant’s responsibility to make the case to APRA’s satisfaction.

A summary of the principles behind the Restricted ADI licence initial requirements are provided below, and further detail is provided in Attachment B.

Governance	APRA needs to be satisfied of the sufficiency of the structure and governance of the proposed ADI, who the owners are, what capacity the owners have to support the institution and how that may change.
Business plan	APRA will need to assess the applicant’s proposed business and be assured that the intended business model is viable and sustainable.
Approach to meet full prudential framework	APRA will need confidence that the applicant has credible plans to progress to an ADI licence within two years.

¹⁰ Further information on the levy and how it is calculated is available on APRA’s website in the following link <http://www.apra.gov.au/adi/Levies/Pages/ADI-levies.aspx>

Capital	Capital acts as a buffer against the risk associated with an ADI's activities. APRA will need to ensure that the applicant has sufficient capital to mitigate the risk associated with their proposed operations while a Restricted ADI and to fund any necessary run-off period if the business is not successful.
Fit and proper	APRA will need confidence that the persons who are responsible for the management and oversight of the ADI have appropriate skills, experience and knowledge, and will act with honesty and integrity.
Risk management	APRA will need to assess the risks the applicant expects to be exposed to during the Restricted ADI licence phase as well as its capabilities for managing those risks.
Exit plan	If the Restricted ADI does not progress to an ADI licence the ADI will need to exit the banking industry. The applicant will need a credible exit plan that demonstrates it is able to protect depositors without reliance on the FCS being activated and without impacting financial stability or requiring the use of APRA's crisis management powers.
FCS systems and reporting	The FCS may be activated by the Government as a last resort in the event of a failure, and as such is an important safety net and backstop to financial stability. While applicants will be expected to have credible exit plans that protect depositors without reliance on the FCS, APRA will need confidence that the applicant is able to provide the necessary information, should the FCS be activated.
Other requirements	APRA will need to assess the applicant's proposed approach to managing its operations including the documentation of important procedures and its internal and external audit arrangements.

4.3.4 Restricted ADI licence: Ongoing requirements and restrictions

Given that Restricted ADIs will not be required to meet all the requirements of the prudential framework, some alternative requirements and restrictions on the operations of the Restricted ADI will be in place. This is appropriate to safeguard depositors and financial system stability, and to balance appropriate competitive neutrality.

A summary of the principles behind the requirements applying through the Restricted ADI licence phase are provided below, and further detail is provided in Attachment C.

Liabilities	APRA's role is to protect depositors and the provision of an ADI licence invokes the protection afforded to protected accounts under the FCS. During the Restricted ADI licence phase restrictions on the amount of FCS eligible liabilities will be in place.
Ongoing capital adequacy	APRA will need to ensure that the Restricted ADI has sufficient ongoing capital to mitigate the risk associated with its operations. The Restricted ADI will be required to meet an ongoing capital adequacy

	requirement, based on a simple methodology and an absolute minimum.
Liquidity	APRA will need to ensure sufficient funds are available to return monies to the Restricted ADI's depositors. A Restricted ADI will be required to hold sufficient liquid assets to minimise liquidity risk.
Nature of business	Restricted ADIs are expected to be primarily focussed on building capabilities and systems and are not expected to be actively conducting business with the general public.
Disclosure	It is important that customers that deal with a Restricted ADI understand that it is subject to restrictions on its licence. Restricted ADIs will be required to include certain disclaimers in any marketing material and customer correspondence.
Reporting obligations	APRA needs the ability to determine whether there are emerging risks to depositors of a Restricted ADI and whether the exit plan should be invoked so will set certain reporting obligations.

4.3.5 Restricted ADI licence: Capability development and testing

During the Restricted ADI licence phase, the institution will be expected to fully operationalise its business by putting in place and testing any IT platforms or outsourcing arrangements, hiring the necessary staff, finalising policies and procedures that are appropriate to the activities it will carry out and conduct any relevant training.

The institution does not have to wait until it has been granted a Restricted ADI licence to start operationalising its business. Depending on how ready the institution is, it is possible to start operationalising activities during the application and assessment phase. However the applicant cannot carry out banking business until a Restricted ADI licence is granted.

During the Restricted ADI licence phase institutions will be permitted to carry out a limited level of banking business to enable them to test their capabilities, however, Restricted ADIs are not expected to be actively conducting business with the general public.

4.3.6 Restricted ADI licence: Maximum period

A Restricted ADI licence is intended to be a temporary step towards an applicant's progression to fully meeting the requirements of the prudential framework and gaining an ADI licence. As such, APRA is proposing a maximum two year period that an ADI may hold a Restricted ADI licence.

The two year period is intended to strike an appropriate balance between sufficient time for the institution to operationalise and develop the full complement of resources and systems necessary to be able to meet all aspects of the prudential framework and competitive neutrality for incumbent firms, given the concessions granted during the period.

The two year period would be the maximum period for an ADI to be allowed to operate as a Restricted ADI. There would be no minimum period and institutions would be encouraged to fully meet the prudential framework as swiftly as possible. Early demonstration of this would result in the granting of an ADI licence sooner, enabling them to be subject to less constraint on their business.

During the two year period, APRA would regularly review the Restricted ADI's progress towards fully meeting the requirements of the prudential framework. Failure to demonstrate sufficient progress may result in the Restricted ADI being required to exit the industry, culminating in the licence being revoked by APRA.

4.4 Restricted ADI licence: Exit from banking industry

Given the higher risk nature of start-up enterprises generally, APRA expects that there will be instances where Restricted ADIs would not proceed to an ADI licence and will instead exit the banking industry.

There will be different scenarios in which an exit may be appropriate. Exit may be initiated by the Restricted ADI or by APRA. Regardless of the reason for an exit, APRA's priority is to ensure depositors are protected and financial stability not compromised. To achieve this, a Restricted ADI is expected to have a robust exit plan.

A robust exit plan would establish clear mechanisms to exit the industry in a manner which protects depositors, does not threaten financial system stability and avoids reliance on the FCS or use of APRA's crisis management powers.

4.4.1 Voluntary exit

Should a Restricted ADI, at any time during the Restricted ADI licence phase, decide that its business is not viable or that it does not wish to proceed to an ADI licence, the Restricted ADI should advise APRA and activate its exit plan to seek a smooth exit from the banking industry. When the Restricted ADI no longer has any deposits, APRA would revoke its licence.

4.4.2 APRA-triggered exit

Where APRA considers a Restricted ADI will not be successful in transitioning to an ADI licence, APRA may trigger an exit.

This could occur, for example, if the institution is unable to demonstrate to APRA sufficient progress in its development of capabilities and resources to fully meet the requirements of the prudential framework on a proportionate basis within the two year timeframe.

There could also be instances where a Restricted ADI has breached its licence restrictions. In this instance APRA would assess the severity and likely continuation of the breach to determine whether the Restricted ADI should exit from the industry.

Should APRA consider an exit is appropriate it would advise the Restricted ADI to commence action to exit the industry in an orderly manner with the interests of depositors given the

highest priority. When the ADI no longer has any deposits, APRA would revoke the Restricted ADI's licence.

4.4.3 Financial Claims Scheme

The Financial Claims Scheme (FCS) is an Australian Government scheme that protects depositors of ADIs from potential loss (up to \$250,000 per account-holder per ADI) due to the failure of an ADI. The FCS seeks to provide depositors with timely access to their protected deposits in the event of the failure of the ADI.

The FCS is an important safety net for the Australian community and acts to support the stability of the Australian financial system. Restricted ADIs will be expected to have credible exit plans and a number of the proposed restrictions are intended to ensure there is no reliance on the FCS should a Restricted ADI exit the industry. Nevertheless APRA expects all ADIs to maintain a level of FCS operational readiness.

During the Restricted ADI licence phase, Restricted ADIs will be subject to limits on FCS eligible deposits of no more than \$250,000 per account-holder and no more than \$2 million in aggregate. Restricted ADIs will also be required to be able to produce the necessary data to calculate and make FCS payments. Other restrictions are intended to ensure that the Restricted ADI holds sufficient resources to provide full coverage of the costs associated with an FCS payout. This is intended to maximize the ability to successfully administer an FCS payout and recoup the FCS related costs from the failed ADI, should a Restricted ADI fail and the Australian Government activate the FCS.

4.5 ADI licence

An ADI licence authorises an ADI under the Banking Act to conduct banking business in Australia. Once APRA assesses that an institution meets the requirements of the prudential framework for ADIs, in a manner proportionate to the size, nature and complexity of its business, it will be granted an ADI licence. Some applicants may transition through the Restricted ADI phase, others will proceed straight to an ADI licence.

An institution with an ADI licence will be supervised by APRA in a consistent manner to other ADIs of similar size, nature and complexity.

4.5.1 ADI licence with conditions

An ADI licence may or may not have associated conditions. Conditions on a licence may be on a temporary or indefinite basis.

Conditions are most likely to apply where the applicant's business plan, and therefore APRA's assessment, was in relation to a specific range of business or set of circumstances. While the applicant may have been assessed as meeting APRA's prudential framework in relation to its existing business or circumstances, APRA may need to conduct further assessment ahead of the ADI expanding its business model or circumstances.

Such conditions are most likely to be applied to ADIs that wish to conduct a targeted range of activities. A current example of an ADI licence with conditions is one granted to Purchased

Payment Facility (PPF) providers. A PPF provider licence is subject to a number of conditions and they are only permitted to carry out a limited range of banking activities.

Where an ADI has an ADI licence subject to conditions and it seeks to have the conditions on its ADI licence altered, it would need to approach APRA for a reassessment.

Chapter 5 Consultation and next steps

APRA is consulting on proposals to introduce a phased approach to licensing ADIs. This approach is intended to facilitate competition in the banking sector by providing eligible new entrants time to establish the full complement of resources and systems necessary to be able to meet all aspects of the prudential framework.

In introducing a new approach APRA needs to ensure that community expectations are met, and that confidence remains that deposits with all ADIs are adequately safeguarded. APRA also seeks to consider a range of normal competitive dynamics and to promote financial stability.

In considering these proposals it is important to note that APRA established a centralised licensing team in July 2017. A number of broader enhancements to APRA's licensing practices will, over time, enhance efficiencies and the licensing experience of new applicants across all APRA-regulated industries.

APRA invites written submissions from all interested parties on its proposals for the phased approach to licensing new entrants to the banking industry. Written submissions should be sent to Licensing@apra.gov.au by 30 November 2017 and be addressed to:

General Manager, Licensing
Policy and Advice Division
Australian Prudential Regulation Authority

During the consultation process APRA may also look to arrange discussions of these proposals with interested parties. To note your interest in discussing the proposals with APRA or to provide a submission please contact Licensing@apra.gov.au.

Important disclosure notice – publication of submissions

All information in submissions will be made available to the public on the APRA website unless a respondent expressly requests that all or part of the submission is to remain in confidence.

Automatically generated confidentiality statements in emails do not suffice for this purpose.

Respondents who would like part of their submission to remain in confidence should provide this information marked as confidential in a separate attachment.

Submissions may be the subject of a request for access made under the *Freedom of Information Act 1982* (FOIA).

APRA will determine such requests, if any, in accordance with the provisions of the FOIA. Information in the submission about any APRA-regulated entity that is not in the public domain and that is identified as confidential will be protected by section 56 of the *Australian Prudential Regulation Authority Act 1998* and will therefore be exempt from production under the FOIA.

Consultation questions

Submissions are welcome on all aspects of the proposals.

In addition, specific areas where feedback on the proposed direction would be of assistance to APRA in finalising its proposals are outlined below.

Table 3: Consultation questions

Introduction of phased approach for ADIs	Should APRA establish a phased approach to licensing applicants in the banking industry?
Balance of APRA's mandate	Do the proposals strike an appropriate balance between financial safety and considerations such as those relating to efficiency, competition, contestability and competitive neutrality?
Eligibility	Are the proposed eligibility criteria appropriate for new entrants to the banking industry under a Restricted ADI licence?
Restricted ADI Licence phase	Is two years an appropriate time for an ADI to be allowed to operate in a restricted fashion without fully meeting the prudential framework? Is two years a sufficient period of time for a Restricted ADI to demonstrate it fully meets the prudential framework?
Minimum requirements	Are the proposed minimum requirements appropriate for potential new entrants to the banking industry? Are there alternative requirements APRA should consider?
Licence restrictions	Are the proposed licence restrictions appropriate for an ADI on a Restricted ADI licence? Are there alternative or other restrictions APRA should consider?
Financial Claims Scheme	Are the proposals appropriate in the context of the last resort protection afforded to depositors under the Financial Claims Scheme?
Further refinement	Are there other refinements to the licensing process APRA should consider?

Next steps

Submissions close on 30 November 2017.

APRA expects to issue a response paper and updated licensing guidelines for ADIs, including phased licensing, in quarter two 2018.

Attachment A - Restricted ADI licence: Initial requirements

This attachment outlines the proposed initial requirements to be met to obtain a Restricted ADI licence (Table 4).

Table 4: Example of minimum requirements to obtain a Restricted ADI licence

<p>Governance</p>	<p>APRA needs to be satisfied of the sufficiency of the structure and governance of the proposed ADI, who the owners are, what capacity the owners have to support the institution and how that may change.</p> <p>Applicants must provide details of:</p> <ul style="list-style-type: none"> • the high-level organisational and management structures and governance arrangements; • roles critical to operation during the Restricted ADI licence phase (these should be filled or ready to be recruited); • ownership structure charts (including percentages of shareholdings); and • names of substantial shareholders (direct and ultimate) and their respective shareholdings and details of related entities in Australia as well as details on their capacity to provide support.
<p>Business plan</p>	<p>APRA will need to assess the applicant’s proposed business and be assured that the intended business model is viable and sustainable.</p> <p>Applicants must provide a credible business plan incorporating:</p> <ul style="list-style-type: none"> • the goals of the first three years of operation; • the proposed activities (including details of products and services to be offered) and target market; • scale of operations and target volume of business; • projected financials to demonstrate viability in short and later term; • intended means of distribution channel/s; • estimated number of staff; and • proposed commencement of operations.

<p>Approach to meet full Prudential Framework</p>	<p>APRA will need confidence that the applicant has credible plans to progress to an ADI licence within two years.</p> <p>Applicants must provide a strategy on the expected progress to meeting the ADI prudential framework (on a proportionate basis) by the end of the Restricted ADI licence phase. This strategy should outline:</p> <ul style="list-style-type: none"> • how the applicant plans to implement the appropriate risk management systems and capabilities; and • the ongoing and capital and funding arrangements or other sources of funding.
<p>Capital</p>	<p>Capital acts as a buffer against the risk associated with an ADI’s activities. APRA will need to ensure that the applicant has sufficient capital to mitigate the risk associated with their proposed operations while a Restricted ADI.</p> <p>A Restricted ADI will need a minimum of \$3 million in start-up capital plus wind-up costs at all times. This is expected to consist of equity provided by the owners to ensure it is freely available to absorb losses in the event of failure. The amount of the wind-up cost will be determined by APRA and would be largely based on the institution’s operational expenses for a period of 12 months.</p>
<p>Fit and proper</p>	<p>APRA will need confidence that the persons who are responsible for the management and oversight of the ADI have appropriate skills, experience and knowledge, and will act with honesty and integrity.</p> <p><i>Prudential Standard CPS 520 Fit and Proper</i> will apply to a Restricted ADI with no concessions.</p>

Exit plan

If the Restricted ADI does not progress to an ADI licence the ADI will need to exit the industry. The applicant will need a credible exit plan that demonstrates it is able to protect depositors without reliance on the FCS being activated and without impacting financial stability or requiring the use of APRA's crisis management powers.

Applicants will be required to have an exit plan which is timely, comprehensive and credible:

- **Timely:** the plan should contain a robust, and properly monitored trigger framework, including a range of qualitative and quantitative triggers, to create a clear escalation process for implementation of the exit plan.
- **Comprehensive:** the plan should contain sufficient options to evidence how the Restricted ADI will protect and communicate with depositors and be able to exit the industry without reliance on the FCS or the need for APRA's crisis management powers.
- **Credible:** the options included in the plan should be realistic, and able to be implemented quickly enough so as to not impact market confidence.

FCS systems and reporting

The Financial Claims Scheme (FCS) may be activated by the Government as a last resort in the event of a failure, and as such is an important safety net and backstop to financial stability. While applicants will be expected to have credible exit plans that protect depositors without reliance on the FCS, APRA will need confidence that the applicant is able to provide the necessary information, should the FCS be activated.

Applicants will need to demonstrate reliable systems to record and report the amount and details of deposits held in accordance with *Prudential Standard APS 910 Financial Claims Scheme* (APS 910). In particular, a Restricted ADI must be able to identify each unique account-holder and generate a single customer view for protected deposits held as well as generate reports for the purposes of the FCS payments as outlined in APS 910.

Risk management

APRA will need to assess the risks the applicant expects to be exposed to during the Restricted ADI licence phase as well as its capabilities for managing those risks.

Applicants must provide a description of the risk profile associated with its proposed strategy and business plan. This should be accompanied by a high level description of the proposed systems and controls to manage and monitor the risks. A strategy for implementing adequate systems and controls should be provided to APRA and these systems and controls should be in place prior to conducting the banking business the Restricted ADI is licensed for.

Policies and procedures

APRA will need to assess the applicant's proposed approach to managing its operations and whether important policies and procedures for this are appropriately documented.

Applicants will need to provide APRA with well progressed drafts of policies on outsourcing strategy and management of service providers. The development of policies and procedures for other aspects related to its proposed product offerings should be planned as part of the applicants' strategy to fully meet the prudential framework.

Internal and external audit arrangements

As Restricted ADIs are not required to meet the full suite of regulatory reporting forms, APRA will need assurance that the reporting provided to APRA is complete and accurate.

Applicants will need to advise APRA of its proposed internal audit arrangements and details of its appointed external auditor. APRA will be seeking assurance from the institution's external auditor as needed.

Attachment B - Restricted ADI licence: Ongoing requirements and restrictions

This attachment details the requirements and restrictions which would apply under APRA's proposal to an institution operating under a Restricted ADI licence (Table 5).

Table 5: Requirements and restrictions applied to a Restricted ADI licence

<p>Liabilities</p>	<p>APRA's role is to protect depositors and the provision of an ADI licence invokes the protection afforded to protected accounts under the FCS. During the Restricted ADI licence phase restrictions on the amount of FCS eligible liabilities will be in place.</p> <p>This will be an individual customer deposit limit of \$250,000 and an aggregate deposit limit of \$2 million.</p>
<p>Ongoing capital adequacy</p>	<p>APRA will need to ensure that the Restricted ADI has sufficient ongoing capital to mitigate the risk associated with its operations. The Restricted ADI will be required to meet an ongoing capital adequacy requirement, based on a simple methodology and an absolute minimum.</p> <p>This will be based on a minimum accounting based leverage ratio of 20 per cent, subject to minimum capital pre-determined by APRA.</p> <p>A Restricted ADI would therefore be required to hold a minimum amount of capital of at least \$3 million plus wind-up costs or 20 per cent of its total assets, whichever is greater.</p> <p>The leverage ratio would be calculated as the Restricted ADI's capital as a percentage of its total assets determined under Australian Accounting Standards.</p> <p>The capital will comprise of Common Equity Tier 1 Capital as defined in <i>Prudential Standard APS 111 Capital Adequacy: Measurement of Capital</i> as this represents the highest quality of capital.</p> <p>A Restricted ADI whose capital falls below its minimum prescribed capital will be required to exit the industry.</p>
<p>Liquidity</p>	<p>APRA will need to ensure sufficient funds are available to return monies to the Restricted ADI's depositors. A Restricted ADI will be required to hold sufficient liquid assets to reduce liquidity risk.</p> <p>A Minimum Liquid Holdings (MLH) requirement equal to 20 per cent of total balance sheet liabilities will be required to be held at all times.</p> <p>The MLH should comprise of liquid assets which are free from encumbrances as defined by the MLH approach in Attachment B to <i>Prudential Standard APS 210 Liquidity</i>.</p>

Nature of business	<p>Restricted ADIs are expected to be primarily focussed on building capabilities and systems and are not expected to be actively conducting business.</p> <p>The institution will be restricted to offering the products and services detailed in its strategy and business plan assessed by APRA in granting the Restricted ADI licence. This may involve offering limited services and products to customers, however, Restricted ADIs will not be expected to be actively conducting business.</p>
Disclosure	<p>It is important that customers that deal with a Restricted ADI understand that it is subject to restrictions on its licence.</p> <p>APRA proposes to require certain disclaimers, in a pre-approved format, be included in any marketing material and customer correspondence. The disclosures would be expected to state that the Restricted ADI is operating under a Restricted ADI licence for up to a two-year period and its operations are subject to conditions as determined by APRA.</p>
Reporting obligations	<p>APRA needs the ability to determine whether there are emerging risks to depositors of a Restricted ADI and whether the exit plan should be invoked so will set certain reporting obligations.</p> <p>APRA proposes that Restricted ADIs will agree the form of reporting obligations with APRA.</p> <p>At a minimum Restricted ADIs will be required to report, on a regular basis:</p> <ul style="list-style-type: none"> • details of the institution’s financial position, performance and business cash flows; • capital adequacy and liquidity ratios; • FCS protected amounts; and • reporting against the milestones and triggers outlined in the applicant’s business and exit plans.



 **APRA**