



Authority to carry on banking business

Banking Act 1959

SINCE Xinja Bank Limited ABN 99 618 937 054 (the ADI) has applied for an authority to carry on banking business in Australia for a limited time,

I, Mark Adams, a delegate of APRA, under subsection 9(3) of the *Banking Act 1959* (the Act), GRANT the ADI authority to carry on banking business in Australia.

Under paragraph 9AA(1)(a) of the Act, I IMPOSE on this Authority the conditions specified in the attached Schedule.

This Authority commences on 17 December 2018 and ceases to have effect on 16 December 2020.

Dated: 17 December 2018

[signed]

Mark Adams
Executive General Manager
Specialised Institutions Division

Interpretation

In this Notice

APRA means the Australian Prudential Regulation Authority.

ADI is short for authorised deposit-taking institution and has the meaning given in subsection 5(1) of the Act.

banking business has the meaning given in subsection 5(1) of the Act.

Note 1 Under paragraph 9D(2)(b) of the Act, this Authority ceases to have effect at the start of the day specified in this Authority (expiry day). Under subsection 9E(2) of the Act, APRA may, at any time before the expiry day, vary the authority to change the expiry day to a later day. If APRA does so, APRA must give written notice to the ADI and publish notice of the variation in the *Gazette* under subsection 9E(3) of the Act.

Note 2 Under subsection 9F(2) of the Act, APRA may, at any time before the expiry day, give the ADI a written notice stating that the authority continues in effect on and after the expiry day in relation to a specified matter or specified period for the purposes of one or more specified provisions of the Act, the regulations, another Commonwealth law administered by APRA, or the prudential standards. The statement has effect accordingly.

Note 3 Under subsection 9AA(1) of the Act, APRA may at any time, by notice in writing given to an ADI, impose conditions or additional conditions or vary or revoke conditions imposed on its Authority to carry on banking business. The conditions must relate to prudential matters.

Note 4 Under subsection 9AB(1) of the Act, an ADI is guilty of an offence if it does or fails to do an act and doing or failing to do that act results in a contravention of a condition of the ADI's Authority, and there is no determination in force under section 11 of the Act that subsection 9AB(1) does not apply to the ADI. The maximum penalty is 300 penalty units. Under subsection 9AB(2) of the Act, where an individual commits an offence against subsection 9AB(1) of the Act because of Part 2.4 of the *Criminal Code*, or commits an offence under Part 2.4 of the *Criminal Code* in relation to an offence against subsection 9AB(1) of the Act, the individual is punishable on conviction by a fine not exceeding 60 penalty units. Under subsection 9AB(3) of the Act, an offence against section 9AB of the Act is an offence of strict liability and section 6.1 of the *Criminal Code* applies.

Note 5 Under subsection 9AA(6) of the Act, a decision to impose conditions on this Authority is a decision to which Part VI of the Act applies. If a person affected by the decision is dissatisfied with the decision, the person may seek reconsideration of the decision by APRA in accordance with section 51B(1) of the Act. The request for reconsideration must be in writing, must state the reasons for the request, and must be given to APRA within 21 days after the decision first comes to the person's notice or within such further period as APRA allows. If dissatisfied with APRA's reconsidered decision confirming or varying the first decision, the person may, subject to the *Administrative Appeals Act 1975*, apply to the Administrative Appeals Tribunal for review of the reconsidered decision.

The address where written notice may be given to APRA is Level 12, 1 Martin Place, Sydney NSW 2000.

Note 6 The circumstances in which APRA may revoke an ADI's Authority are set out in section 9A of the Act.

Note 7 Under subsection 9(3) of the Act, notice of this Authority must be provided to the ADI. Under subsection 9(4) of the Act, APRA must publish notice of this Authority in the *Gazette* and may cause notice of the Authority to be published in any other way it considers appropriate.

Schedule – the conditions imposed on the Authority

Unless otherwise approved in writing by APRA, the ADI must:

1. only accept deposits where:
 - (a) the aggregate balance of all protected accounts held with the ADI does not exceed \$2 million; and
 - (b) the aggregate balance of all protected accounts held by each account-holder with the ADI (calculated using a single customer view) does not exceed \$250,000;
2. maintain, at all times, Common Equity Tier 1 Capital equal to the greater of:
 - (a) \$3 million plus the resolution reserve, which is \$1 million unless otherwise determined by APRA; or
 - (b) 20 per cent of adjusted assets of the ADI;
3. hold, at all times, liquid assets equal to the greater of:
 - (a) 20 per cent of total liabilities; or
 - (b) the aggregate balance of all protected accounts held with the ADI plus an amount equal to the resolution reserve;
4. limit the value of assets held on its balance sheet to \$100 million, unless otherwise approved in writing by APRA;
5. comply with the individual prudential standard *Xinja Bank Limited – restricted ADI prudential standard* and the conditions on the reporting standard exemption. Should the ADI breach these requirements, it must promptly enact its exit plan, unless otherwise agreed to in writing by APRA;
6. carry out all actions outlined in its exit plan if it reaches the trigger thresholds in that plan;
7. only offer products included in its business plan for the restricted phase as submitted to APRA in its ADI application, and must seek prior approval from APRA should it wish to offer any additional products;
8. if it appears to APRA that the ADI is unlikely to meet the full prudential requirements within the period of this authority. APRA may seek to revoke this authority;
9. disclose to its customers and potential customers that it is operating on a restricted licence in all its dealings;
10. not carry on banking business in any country other than Australia; and
11. not use any derivative without approval from APRA.

Interpretation

In this Schedule

adjusted assets is the sum of all assets, within the meaning given in the Australian Accounting Standards, minus an amount equal to the value of regulatory adjustments required to be made under *Prudential Standard APS 111 Capital Adequacy: Measurement of Capital*.

Common Equity Tier 1 Capital has the meaning given in *Prudential Standard APS 111 Capital Adequacy: Measurement of Capital*.

derivative has the meaning given in *Prudential Standard CPS 226 Margining and risk mitigation for non-centrally cleared derivatives*.

liabilities for the purpose of this authority, liabilities are defined as total on-balance sheet liabilities and irrevocable commitments, except where approved for a prudential purpose by APRA.

liquid assets are those that meet the requirements of Attachment B of *Prudential Standard APS 210 Liquidity*.

protected account has the meaning given in the Act.

Xinja Bank Limited – restricted ADI prudential standard means a prudential standard determined under paragraph 11AF(1)(e) in relation to prudential matters to be complied with by the ADI.

full prudential requirements means the prudential requirements that will apply to the ADI after the *Xinja Bank Limited – restricted ADI prudential standard* and reporting standard exemption are no longer in force. This includes requirements imposed by the Act, prudential standards made under the Act, reporting standards made under the *Financial Sector (Collection of Data) Act 2001*, conditions on the ADI's authority and any other requirements imposed by APRA in writing.

resolution reserve means the reserve to cover potential APRA costs of resolving the ADI which may, as a last resort, include administration of the Financial Claims Scheme if activated by the Australian Government.

reporting standard exemption means a notice under subsection 16(1) of the *Financial Sector (Collection of Data) Act 2001* exempting the ADI from the requirement to comply with requirements in one or more applicable reporting standards.

single customer view has the meaning given in *Prudential Standard APS 910 Financial Claims Scheme*.