

4 December 2017

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Dear Ms Waterford

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

With the active participation of its members, the Australian Bankers' Association (**ABA**) provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services. The ABA works with government, regulators and other stakeholders to improve public awareness and understanding of the industry's contribution to the economy and to ensure Australia's banking customers continue to benefit from a stable, competitive and accessible banking industry.

Thank you for the opportunity to comment on APRA's Discussion Paper, *Licensing: A phased approach to authorising new entrants to the banking industry (the Discussion Paper)*.

The banking industry supports initiatives which encourage further innovation and competition. The ABA's members also believe the regulatory framework should be carefully calibrated to protect the interests of consumers and investors as well as the stability of the financial system.

The ABA supports a review of licensing to streamline new entrants' regulatory processes. We note there have been 26 banking licenses issued over the past decade including to fintech companies.

Scope exists to encourage innovation which does not result in regulatory arbitrage or undermine consumer protections and financial stability. But caution must be exercised especially where this puts at risk customers who may not understand the different business models, investment risks and protections and where the banks are called on to utilise their capital strength to provide safeguards across the financial system.

Any phased licencing should not allow for the entrance of market participants that lack sound business, governance and risk management behaviours, again ensuring the stability of the financial services industry through the economic cycle.

Our comments on the specific criteria outlined in the Discussion Paper are outlined below.

Eligibility

APRA notes that well-resourced and established institutions will not be expected to be eligible. Further clarification by APRA around these terms is required. For example, it is assumed that local affiliates of established, well-resourced foreign institutions should also be ineligible for phased ADI licensing.

The ABA believes this would be the right approach, given the Government's policy aim of encouraging new and innovative businesses navigate the more burdensome full ADI licensing process.



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Initial requirements

All financial services providers and credit providers should be required to maintain adequate financial requirements and compensation arrangements to ensure appropriate consumer protections, and maintain confidence in the Australian financial services industry.

The ABA notes that the initial capital requirements outlined by APRA contain discretion with relation to an applicant's structure, ownership, governance, and business plan. We note APRA's intention of setting a minimum requirement of start-up capital of at least \$3 million plus wind-up costs. The ABA would not support any further dilution of capital requirements below this point.

The ABA believes that APRA should consider setting capital requirements for this 'phased' ADI licence based in some way on risk-weighted assets (assuming a suitable risk metric is applied) to ensure customer deposits are not used to fund high risk activities on the asset side.

We support APRA's application of its fit and proper standards on applicants' directors and senior management. We also strongly recommend that phased ADI applicants also meet the requirements of the forthcoming Banking Executive Accountability Regime to ensure governance standards apply evenly across the industry.

Maximum holding period

Given the lower regulatory requirements for a restricted ADI, the ABA would prefer that the holding period over which a new bank can hold a restricted ADI licence without moving to a full ADI licence be only as long as necessary with a clear sunset established.

Two years appears to be an overly long period of time to meet the prudential requirements of a full ADI, especially in the context of the United Kingdom's regime which is 12 months. APRA should ensure the phased licence remains an interim step in moving to a full ADI licence, rather than creating a two-tier and uneven regulatory regime in which both markets and consumers are not afforded the same protections.

This is a similar view we put forward to Treasury in relation to the enhanced regulatory sandbox regime. The ABA's view is that the default maximum period should be 12 months, with APRA could retaining the flexibility to grant that, if after 12 months, a participant required more time, they could be given a 12 month extension if it was deemed that the new bank could move to a full ADI licence if provided that extension in that time.

Ongoing requirements

APRA have stipulated that customer deposits held by a new bank with a restricted ADI licence could not exceed \$250,000 from a single depositor to ensure that it would be eligible for the Financial Claim Scheme. The ABA believes the individual deposit limit and FCS guarantee should be lower for restricted ADIs given they carry greater risk for the customer themselves and for the FCS than an entity that operates as a full ADI.

APRA have also proposed that the aggregate amount of deposits that a new bank with a restricted ADI licence can hold is \$2 million. We observe that this limit is high compared to international comparisons such as the phased bank licensing framework in the UK (where a new bank in the 'mobilisation' phase has an aggregate deposit limit of £50,000). The ABA would not support any further increase in the aggregate deposit limit as this places a greater number of consumers at risk.

Use of the term 'bank'

The ABA notes that the Government has proposed draft legislation on removing restrictions on the use of the term 'bank'. The ABA would strongly encourage APRA to ensure that any restricted ADI must use the term 'restricted bank' until it attains a full licence.



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Thank you once again for the opportunity to comment on the Discussion paper. Please contact me should you have any questions.

Yours sincerely

Signed by

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