



GUIDELINES

Overseas Banks: Operating in Australia

August 2021

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About these guidelines

These guidelines form part of a package of documents which set out the Australian Prudential Regulation Authority's (APRA's) approach to the licensing and supervision of authorised deposit-taking institutions (ADIs) (figure 1).

These guidelines provide a guide for foreign corporations which hold an authority to carry on banking business in a foreign country (overseas banks) and which are considering establishing a presence in Australia or looking for guidance on potential changes to their existing Australian operations.

These guidelines outline the minimum criteria an overseas bank needs to meet in order for APRA to decide under the [Banking Act 1959](#) (Banking Act) that it may establish a presence, or change the way it operates in Australia. While these guidelines provide an initial source of information for overseas banks, APRA expects that overseas banks familiarise themselves with the legislation specific to their intended operations.

This document is provided for information and guidance purposes only. The content of this guidance is not legal advice and does not form part of the law or create enforceable requirements. Users are encouraged to obtain professional advice about the application of any legislation or prudential standard to their particular circumstances. Users should exercise their own skill and care when relying on any material contained in this guidance.

Australian corporations seeking to conduct banking business in Australia should refer to the guidelines *Licensing: Locally-incorporated ADIs*.

Links to relevant legislation, guidance and web pages have been provided throughout these guidelines to assist readers. The links were correct at time of publication.

Figure 1. Requirements and guidelines applicable to a new entrant ADI



Glossary

ADI	Authorised deposit-taking institution.
APRA	Australian Prudential Regulation Authority.
ASIC	Australian Securities and Investments Commission.
Banking Act	<i>Banking Act 1959.</i>
Banking business	Has the meaning given in section 5 of the Banking Act.
Chief Representative	The individual responsible for the operations of an overseas bank's Australian representative office.
Foreign ADI	Has the meaning given in section 5 of the Banking Act.
Foreign ADI licence	Authorisation under section 9 of the Banking Act for an overseas bank to conduct banking business in Australia, with conditions.
Foreign Central Bank	Financial institution which controls the currency and monetary policy for a nation other than Australia.
Formal application	Application to APRA requesting authority to conduct banking business in Australia under section 9 of the Banking Act (including any supporting information) accompanied by the appropriate application fee.
FSCODA	<i>Financial Sector (Collection of Data) Act 2001.</i>
Home supervisor	The prudential regulator of the overseas bank in its country of incorporation.
Licensing	Licensing refers to the process by which APRA grants a licence to an institution.
Overseas bank	A foreign corporation which holds an authority to carry on banking business in a foreign country
Prudential framework	Prudential framework refers to the legislation, as well as prudential and reporting standards plus associated guidance material, which relate to the prudential regulation of ADIs.
Prudential requirements	Includes requirements in the Banking Act, prudential standards made under the Banking Act, reporting standards made under the <i>Financial Sector (Collection of Data) Act 2001</i> , conditions on an ADI's authorisation and any other requirements imposed by APRA in writing.

Representative office	An office of an overseas bank established in Australia with APRA's consent given under section 67 of the Banking Act.
Substantially complete application	An application where an applicant has demonstrated that it has sufficient financial and non-financial resources, and has submitted all of the expected supporting material which is of sufficient quality and detail to allow APRA to complete its assessment.

Overview

How can an overseas bank operate in Australia?

Overseas banks are able to operate in Australia in a number of ways depending on the type of business they will be conducting. A summary of these is provided below.

1. Offshore office

An overseas bank is able to conduct banking business with Australian counterparties from its offshore offices without a licence from APRA provided:

- the overseas bank does not maintain an office or permanent staff in Australia, including staff employed by another entity within the banking group which conducts business on its behalf;
- the overseas bank is not soliciting business from retail customers in Australia;
- all business contracts and arrangements are clearly transacted and booked offshore, and are subject to an offshore legal and regulatory jurisdiction; and
- the overseas bank does not breach section 66 of the Banking Act, which restricts the use of certain words and expressions, such as 'bank'. APRA will not provide exemptions from section 66 for overseas banks operating in Australia from offshore offices, other than in exceptional circumstances¹.

2. Representative office

An overseas bank which only wishes to conduct liaison and research activities in Australia may do so by establishing a representative office. Representative offices must not conduct any form of banking business or activities related to the administration of banking business. A Representative office also requires APRA's consent to use restricted words.

See **Chapter 1** for more information on the requirements and procedure for establishing a representative office in Australia.

3. Foreign financial services provider

An overseas bank which wishes to offer non-banking financial services to wholesale clients in Australia may do so as a foreign financial services provider (FFSP). FFSPs are licensed and regulated by the Australian Securities and Investments Commission² (ASIC). Restrictions on the use of the word 'bank' apply to FFSPs.

¹ APRA has determined a class exemption of section 66 for overseas banks that issue securities to raise funds in the Australian wholesale capital market. The exemption is available here: www.legislation.gov.au/Details/F2018L00358.

² www.asic.gov.au

4. Non-bank locally-incorporated subsidiary

An overseas bank which wishes to offer non-banking financial services to both retail and wholesale clients in Australia can establish a non-bank locally-incorporated subsidiary. A non-banking financial business is licensed and regulated by ASIC. Restrictions on the use of the word 'bank' apply to non-bank subsidiaries.

5. Foreign authorised deposit-taking institution

An overseas bank which wishes to conduct banking business and provide services to wholesale clients in Australia may do so as a foreign authorised deposit-taking institution (ADI) and establish an Australian branch. An Australian branch of a foreign ADI forms part of the same legal entity as its head office. A foreign ADI is not subject to capital requirements from APRA, but will need to meet other local regulatory requirements applicable for its Australian business. See **Chapters 2 - 4** for more information on the licensing and supervision of foreign ADIs by APRA. There are no restrictions on the use of the word 'bank' by a foreign ADI once they are authorised by APRA.

6. Locally-incorporated subsidiary ADI

An overseas bank which wishes to conduct banking business and provide services to retail clients in Australia will need to establish a locally-incorporated subsidiary ADI. A locally-incorporated subsidiary ADI is a separate legal entity from its overseas parent and will need to meet local capital requirements and all local regulatory requirements on a stand-alone basis. This includes having local governance arrangements, such as a local board. Please refer to the information paper *ADIs: New entrants – a pathway to Sustainability* and the guidelines *Licensing: Locally-Incorporated ADIs* for the requirements and the licensing process for establishing a locally-incorporated ADI. There are no restrictions on the use of the word 'bank' by an ADI.

What is banking business?

In Australia, banking business generally means both taking money on deposit and making advances of money. Under this general definition, overseas banks which only wish to offer services/products in Australia on the assets side of the balance sheet would not be conducting banking business. Only overseas banks which take money on deposit as well as making advances of money would be conducting banking business. Unless an applicant's proposal for its Australian operations includes offering wholesale deposits, it will not be proposing to carry on banking business in Australia and APRA would be unable to grant it a licence.

There is no concept of 'investment banking' in Australia. Foreign investment banks wishing to offer services in Australia (such as mergers and acquisitions advice, or stockbroking) would do so as either an FFSP or as a non-bank subsidiary licensed and regulated by ASIC. As these companies would not be conducting banking business and would not be ADIs, they are not permitted to use the term 'banking' in relation to their business.

The table below provides an overview of the differences between the types of overseas bank presence that are subject to APRA's approval and supervision. It is not uncommon for overseas banks to establish their presence as a representative office then progress to either a foreign ADI or locally-incorporated subsidiary ADI.

	Representative office	Bank branch	Subsidiary ADI
Licence type	N/A. APRA consent required.	Foreign ADI.	ADI (locally-incorporated).
Home consent required	Letter from home supervisor to confirm overseas bank has permission to open a representative office in Australia.	Approval from home supervisor to establish a branch in Australia. Letter to APRA from home supervisor confirming that the overseas bank is in good financial standing and meets its prudential requirements.	Approval from home supervisor to establish a subsidiary ADI in Australia. Letter to APRA from home supervisor confirming that the overseas bank is in good financial standing and meets its prudential requirements.
Permissible activities	Research and liaison only.	Banking activities, with restrictions on deposits. Generally, provide products and services to wholesale clients only.	All banking activities. Generally, no limitations on customer type.
APRA supervision	Not subject to prudential supervision. Annual attestation of compliance with conditions of the consent.	Prudential supervision. Not all of APRA's ADI prudential standards apply. Some ADI standards are applicable in a modified manner.	Prudential supervision. All relevant ADI prudential standards apply.

Restricted words or expressions

The Banking Act places restrictions on financial businesses using certain words and expressions related to banking. Under sections 66 and 66A of the Banking Act, only persons that have been granted approval by APRA can use the following words or expressions in Australia in relation to their financial business (unless an exception in the Banking Act applies):

- 'bank', 'banker' and 'banking';
- 'building society', 'credit union', 'credit society' and 'credit co-operative';
- 'authorised deposit-taking institution'; and
- 'ADI' (except where these letters are used as part of another word).

Further information on the application of sections 66 and 66A of the Banking Act is available in the guidelines [Restricted Words under the Banking Act 1959](#).

An overseas bank that has been granted a foreign ADI licence or has a subsidiary with an ADI licence is not restricted from using the words or expressions 'authorised deposit-taking

institution' and 'ADI' in relation to its financial business, and may use the words 'bank', 'banker' and 'banking' in relation to its financial business unless APRA determines otherwise.

APRA will not provide exemptions from section 66 for overseas banks that are not licensed by APRA, except in limited circumstances. However, provided an overseas bank conducting its business with Australian counterparties from an offshore office does so under the conditions stated on page 7 of these guidelines, APRA does not consider that the overseas bank will be in breach of section 66 of the Banking Act if it:

- uses a restricted word such as 'bank', including in its corporate name, when dealing with its clients; or
- uses restricted words such as 'bank' to register a security interest over property in Australia, including on the Personal Property Securities Register established pursuant to the [*Personal Property Securities Act 2009*](#).

Chapter 1 - Representative offices

A representative office of an overseas bank does not have authority to conduct banking business in Australia and its activities are generally confined to the conduct of liaison and research activities. It cannot conduct any banking business or activity related to the administration of banking business in Australia. It is common, but not essential, for an overseas bank to progress from a representative office to establishing an Australian branch or locally-incorporated subsidiary ADI.

An overseas bank wishing to establish a representative office in Australia will be required to meet minimum entry standards and comply with certain operating conditions, set by APRA. Further information about these standards and conditions is set out below. Failure to comply with the operating conditions may lead to revocation of the consent to maintain a representative office in Australia. APRA may vary the conditions in writing at any time.

An overseas bank looking to establish a representative office in Australia should contact the APRA licensing team (licensing@apra.gov.au) to discuss its intent (or likely intent) to apply for consent to establish a representative office.

1.1 Application

1.1.1 Entry requirements and minimum supporting information

An applicant wishing to establish a representative office in Australia will need to satisfy APRA that it:

- is recognised as a bank under the laws of its home country;
- is of good substance and repute;
- is subject to adequate standards of prudential supervision in its home country; and
- has received approval from its home country supervisor to establish a representative office in Australia.

Details of the minimum supporting documentation that should be supplied with a representative office application in order to demonstrate that the entry criteria are satisfied is included in Attachment A. This list is not exhaustive and APRA reserves the right to seek further information from applicants and to contact other supervisory authorities about an applicant.

1.1.2 How to submit

APRA uses a secure document portal for submission of applications and supporting information. Applicants will need to provide APRA with the details of the individuals who will be responsible for submitting the application. Access to the secure document portal will then be arranged for the selected individuals representing the applicant.

Applications for registration under the [Corporations Act 2001](#) must be lodged with ASIC.

1.1.3 Application and monitoring fees

A schedule of the current fees applicable to representative offices of overseas banks in Australia can be found on the APRA website³.

Application fee

Applicants are required to pay an application fee at the time of submitting their application. All application fees are non-refundable regardless of the outcome of the application(s).

APRA will issue applicants with an invoice for the application fee. To facilitate this, applicants should provide APRA with:

- Name of company (applicant)
- ABN⁴ of applicant
- Contact details:
 - name and position of contact
 - applicant address.

Monitoring fee

A fee is payable each financial year to APRA for APRA's monitoring of the operations of the representative office(s) of an overseas bank.

This fee will be levied by invoice at the beginning of the financial year and no part will be refunded if the representative office closes before the end of that financial year. The same annual charge applies regardless of how many representative offices the overseas bank maintains in Australia.

Representative office monitoring

Monitoring of representative offices is undertaken by APRA in discharge of its function of consenting to the maintenance of the representative offices under paragraph 67(1)(c) of the Banking Act, and for the purpose of ensuring that the overseas bank is complying with the conditions imposed on it under subsection 67(2) of the Banking Act.

Fees are reviewed on a regular basis with the fees determined on a cost recovery basis. APRA's application fees, along with other charges and levies, are published in the annual Cost Recovery Implementation Statement.

1.1.4 Timeframe

APRA does not have a statutory obligation to make a decision on an application for the establishment of a representative office within a set timeframe. However, as a guide, it could take APRA from two to three months to provide consent or notify refusal.

³ [Foreign bank representative offices \(not authorised deposit-taking institutions\) | APRA](#).

⁴ Applicants may provide an ARBN or an ACN if they do not have an ABN.

The timeframe to obtaining consent varies, depending on the quality of the application and how responsive the applicant is to APRA's requests.

1.2 Representative office conditions

If APRA approves an application for the establishment of a representative office, the following conditions will generally be imposed on the consent:

- The business of a representative office must be confined to the conduct of liaison and research activities. Examples of permissible activities include: conducting research into the Australian economy; liaising with Australian customers of the bank; the provision of factual information relating to the bank's products and services upon request; and undertaking credit assessments and reports on Australian entities for the bank.
- The representative office must not conduct any form of banking business or activity related to the administration of banking business. Examples of prohibited activities include: soliciting deposits (this includes soliciting deposits locally and also directly overseas); receiving deposits (this includes arranging for members of the public to deposit moneys into any account conducted with an authorised bank in Australia in the name of the representative office or the overseas bank, e.g. for remittance overseas); granting loans; drawing, accepting, endorsing or discounting bills of exchange; establishing letters of credit; dealing in or issuing securities; dealing in derivative products; buying or selling foreign exchange; complaints handling and/or dispute resolution in relation to any financial services business conducted in Australia; or executing any documentation for any of the foregoing purposes.
- The representative office must not engage directly in financial transactions (whether within Australia or overseas), except transactions which are necessary for and incidental to the maintenance of the office in Australia.
- The name of the overseas bank must only be used by the representative office in conjunction with the description 'representative office' (and in accordance with consent granted under section 66 of the Banking Act, if applicable). Restrictions on usage include office signage, letterheads, advertising and business cards.
- The activities of the representative office must be kept separate from those of any financial enterprise operating in Australia. In particular, the Chief Representative may not also be an employee or director with day-to-day responsibilities of any financial enterprise operating in Australia, and the representative office must be distinctly located from the office of any other financial enterprise. If an overseas bank with a representative office in Australia takes an equity position in a financial institution operating in Australia, it must notify APRA immediately.
- The Chief Representative should be an employee of the overseas bank and should possess the competence, character, diligence, honesty, integrity and judgement necessary to perform properly the duties of the position of Chief Representative. The Chief Representative should be generally present in Australia.

- An Australian Federal Police check for a Chief Representative (obtained no more than six months prior to submission) must be submitted to APRA within three months of the date of his/her appointment. If a Chief Representative has not been ordinarily resident in Australia immediately prior to their appointment, a police check must instead be provided from the country where the Chief Representative was ordinarily resident immediately prior to appointment.
- Each Chief Representative, on taking up duties, must provide to APRA a written acknowledgement that they will ensure that the conditions applicable to the operation of the representative office will be complied with at all times.
- Each overseas bank with a representative office in Australia must provide to APRA every year a statement confirming that the representative office is complying with the conditions applying to its consent. This statement should be in electronic form and should be signed by the executive in the overseas bank's Head Office with responsibility for oversight of the Australian representative office, or by some other appropriate member of senior management.
- Any proposal to close or change the location of a representative office, or to change the Chief Representative, must be immediately advised to APRA.
- APRA must be informed immediately of any change in the arrangements for the overseas bank's oversight of its representative office in Australia.
- An overseas bank which has a representative office in Australia must immediately inform APRA of any significant developments adversely affecting its financial soundness and/or reputation globally.
- The representative office in Australia of an overseas bank must comply with all applicable Australian laws and must immediately inform APRA in writing of any breach or alleged breach of an applicable law. In addition, it must immediately inform APRA in writing of any event which results, or might reasonably be expected to result in, the cancellation or suspension of the bank's registration as a foreign company under the Corporations Act.
- The representative office must promptly provide APRA with any information requested relating to its operations.

An overseas bank will also need APRA's consent to establish representative offices in more than one location in Australia or to share a representative office with another overseas bank.

Chapter 2 - Application to conduct banking business in Australia

Institutions which hold an authority to conduct banking business overseas (overseas banks) may apply to APRA for a licence to conduct banking business in Australia as either a foreign ADI (branch) or as a locally-incorporated subsidiary ADI (subsidiary ADI).

This chapter discusses the process for applying for a foreign ADI licence and the engagement with APRA. It provides information that will assist applicants in ensuring they are able to demonstrate they have sufficient and appropriate financial and non-financial resources and that their supporting documentation is of sufficient quality and detail to enable APRA to make a decision on their application as efficiently as possible.

APRA Licensing

APRA Licensing is APRA's centralised licensing function and the point of contact for entities to engage on all licensing matters, from pre-application through to decision.

While entities can expect ongoing engagement with APRA and guidance on the licensing process during the assessment, APRA cannot provide guidance on how an applicant should build its policies and procedures. The applicant is expected to have sufficient experience and understanding of the business it intends to conduct and APRA's prudential requirements for such business.

2.1 Difference between a subsidiary ADI and a branch

A subsidiary ADI of an overseas bank is a separate legal entity from its parent and will need to meet local capital requirements and all local regulatory requirements on a stand-alone basis. This includes having local governance arrangements, such as a local board.

An Australian branch of an overseas bank forms part of the same legal entity as its head office and is not subject to capital requirements by APRA, but will need to meet local regulatory requirements applicable for its Australian business. As the branch is part of the same legal entity, its operations are necessarily dependent on those of the overseas bank as a whole. As such, when APRA grants a foreign ADI licence, it applies to the legal entity as a whole, not just the Australian operations.

Licensing and supervision of foreign ADIs

APRA's approach to the licensing and supervision of foreign ADIs is intended to advance its primary purpose of promoting the safety and stability of the Australian financial system by:

- seeking to ensure that the foreign ADI's business is carried on in a way that avoids any adverse impact on Australian financial system stability; and
- minimising the adverse effect that the failure of the foreign ADI could have on Australian financial system stability.

APRA will supervise a foreign ADI consistent with the Basel Concordat and will co-operate with the foreign ADI's home supervisor accordingly. Co-operation with the foreign ADI's home supervisor is also expected in order to achieve strong supervisory outcomes. In order to achieve this, APRA will exchange supervisory information and views with the foreign ADI's home supervisor as necessary from time to time.

In considering whether an overseas bank can apply to be a foreign ADI and establish a branch, APRA will need to be satisfied that the overseas bank's home supervisor adopts a regulatory regime consistent with the Core Principles of Banking Supervision set out by the Basel Committee on Banking Supervision (BCBS). APRA may require an overseas bank to establish a subsidiary ADI in order to conduct banking business in Australia if the home supervisor does not follow the BCBS principles on an equivalent basis to APRA or if the overseas bank is not internationally active. Applicants are encouraged to contact APRA early on in their plans for establishing a banking presence in Australia to discuss the appropriate means by which the overseas bank can conduct banking business in Australia.

While it is uncommon for an overseas bank to simultaneously hold an authority to operate as a branch and have a subsidiary ADI, APRA will consider the circumstances for such a request. Further information on the dual operation of overseas banks in Australia is available in Chapter 4.

2.2 Foreign ADI licensing process

The following section provides guidance for overseas banks looking to establish a branch in Australia and be licenced as a foreign ADI. Attachment B provides a list of the minimum supporting information APRA expects to be included as part of an application for a foreign ADI licence. Overseas banks looking to establish a subsidiary ADI in order to conduct banking business in Australia should refer to the information paper *ADIs: New entrants – a pathway to Sustainability* and the guidelines *Licensing: Locally-Incorporated ADIs* which provide guidance on the requirements and licensing process for locally-incorporated applicants.

The licensing process involves the following steps:

- Pre-application – preliminary consultation between APRA and the entity on its plans to carry on banking business in Australia.
- Formal application – entity makes its formal application to APRA requesting authority to conduct banking business in Australia and pays the applicable application fee.

- Assessment - APRA's assessment of the application. An iterative process between the applicant and APRA including meetings with senior officers and other responsible persons, review of policies and procedures and an on-site review.
- Substantially complete application – an application where an applicant has demonstrated that it has sufficient financial and non-financial resources, and has submitted all of the expected supporting material which is of sufficient quality and detail to allow APRA to complete its assessment.
- Licensing decision – APRA grants or refuses the application for a banking licence.

Once APRA is satisfied that it has a substantially complete application, a licensing decision is ordinarily made within 90 days. The entire application process from submission of formal application until decision may take twelve - eighteen months depending on the readiness of the applicant and complexity of the business.

The licensing process is an iterative process which can involve several rounds of feedback from APRA, and resubmissions from the applicant. Some common factors that can delay the grant of a licence, or result in a refusal include:

- an application that contains incomplete or inadequate documentation;
- an entity being unable or unwilling to comply with APRA's requirements (for example, being unable to raise the required level of capital) or provide APRA with the expected documentation;
- material threshold issues or prudential concerns (for example legal structure, fitness and propriety of key individuals, lack of experience in operating proposed business); and
- delays in responding to APRA's requirements and requests.

APRA encourages all prospective applicants to contact the licensing team licensing@apra.gov.au as early as possible during their planning phase to discuss their intent (or likely intent) to apply for a licence.

A diagram of the full licensing process is available in Attachment D.

2.3 Pre-application — early contact with APRA

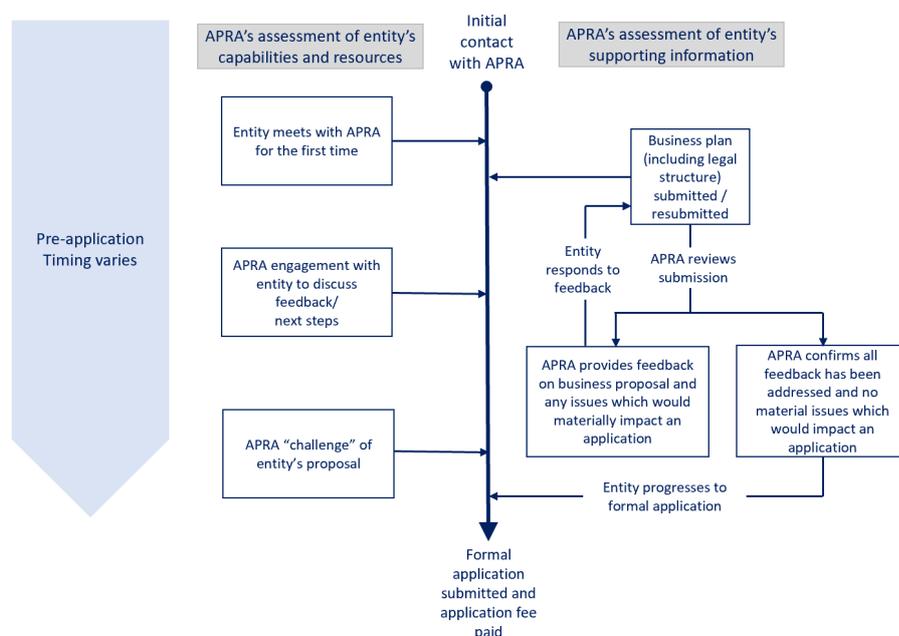
All overseas banks contemplating a foreign ADI licence application should contact APRA to engage in pre-application discussions and meetings, and address any material issues, or concerns raised by APRA ahead of submitting an application and starting the licensing process.

Discussions with entities in the early stages of considering a licence application are highly beneficial for both parties, providing an opportunity for:

- APRA to outline the licensing process and clarify what an entity will need to do to obtain a licence;
- an entity to ask questions so that it understands APRA's expectations and the licensing process; and
- APRA to gain an understanding of the entity's plans and raise any likely issues or concerns as soon as possible.

Early contact can inform whether or not an entity proceeds to an application and its approach to developing its application. For example, early discussions with overseas banks have on occasions highlighted that the intended Australian business does not satisfy the Banking Act definition of banking business, or that the proposed branch intends to operate on a highly globally integrated “brass plate” basis with limited resources in Australia.

Figure 2. Pre-application process



2.3.1 Pre-application meetings

Pre-application meetings are intended to help overseas banks navigate the licensing process and ensure that their applications are as complete as possible. Often more than one pre-application meeting is needed where the overseas banks proposal includes high levels of off-shoring. While the number and type of pre-application meetings will differ on a case-by-case basis, more common meetings are noted below.

Initial enquiry meeting

The initial meeting gives overseas banks an opportunity to discuss their plans with APRA and for APRA to understand the general proposal and give feedback. These meetings are often held at a formative stage of an overseas bank’s planning.

Preparing for an initial enquiry discussion with APRA: what do applicants need to do?

In advance of the initial meeting, overseas banks should prepare a brief, high-level summary of their business proposition. As a minimum it should include:

- an explanation of why the overseas bank wants to be licensed as a foreign ADI; and
- the overseas bank's initial business proposition and strategy, including high level information on its:
 - a) business proposition – what products the branch will be offering, how it will offer them and its target market;
 - b) sources of funding – how it proposes to fund the branch;
 - c) owners and structure – details of the ownership and group structure;
 - d) corporate governance – proposed structure, senior officer outside Australia (SOOA), senior management and governance arrangements, as far as these are known; and
 - e) project plan – an overview and timeline of the plan to set up the branch.

Feedback meeting

Once an overseas bank's plans have developed and it considers it will be in a position to submit an application in the short to medium term, it should submit its developed business plan to APRA for high-level review (see Chapter 2 for APRA's business plan expectations). This is a key step in the licensing process and allows APRA to determine whether there are any prudential issues associated with the proposal and to raise with the overseas bank any concerns that APRA may have. It also assists the overseas bank submitting a good quality application which will add to the efficiency of the licensing process.

APRA will meet with the overseas bank to present high-level feedback and give the overseas bank the opportunity to ask questions or discuss any issues it may have. At the end of the meeting, APRA will provide feedback on the overseas bank's readiness to submit an application and discuss the actions the overseas bank will need to take if it wants to progress with its application. Following the meeting, APRA will send formal feedback to the overseas bank in a letter. Depending on the feedback given, the overseas bank may require additional pre-application feedback meetings prior to a final pre-application challenge meeting.

Challenge meeting

The final meeting APRA will have with an overseas bank before they submit their application is the challenge meeting. Before the challenge meeting is held, overseas banks should have fully developed their Australian business plan, and incorporated APRA's feedback from previous meetings. The challenge meeting is an opportunity for APRA to challenge the overseas bank on any aspect of its Australian business plan, its understanding of APRA's prudential requirements, and its preparedness for application. Key topics likely to be covered are:

- Business model and financials – business strategy and financial projections (forecasts and key performance indicators).

- Governance and risk management – branch governance, risk management and control framework, including staffing.
- Operational resilience – IT infrastructure and systems and (if applicable) timescales for implementation and testing, outsourcing.
- Policies, procedures and plans – timeframe for setting up the branch, operational and regulatory policies and procedures.

Following the meeting APRA will provide feedback on the overseas bank's proposition. The overseas bank should take the necessary time and care to consider and fully address this feedback prior to applying for a foreign ADI licence.

2.4 Application

After the overseas bank has addressed or has an acceptable proposal to resolve any issues arising from the pre-application meetings, it should be ready to make its formal application and pay its non-refundable application fee. Applications should be made to APRA in writing and should be accompanied by the appropriate fee and the information and supporting documents as set out in these guidelines.

2.4.1 Application expectations

To be successful at being granted a licence, an applicant is responsible for demonstrating:

- an approach which on a proportionate basis meets the requirements of the prudential standards;
- a sound risk culture; and
- that it has adequate financial and non-financial resources, including staff with appropriate expertise to commence the operations for which it is being licensed and to competently implement sound risk management practices.

The written application is an important demonstration of the strength of an applicant's proposal. It supports APRA's assessment of whether an applicant will have the ability to able to comply with all relevant prudential requirements from the commencement of their licence. The applicant's documented framework is an important foundation in demonstrating understanding of the prudential requirements and the capacity of the applicant to conduct its business in a manner that will meet APRA's requirements. APRA's assessment of an applicant's ability to comply with the requirements in the prudential standards goes beyond assessing an applicant's documented policy framework to consideration of their ability to operationalise the requirements and to manage this on an ongoing basis.

Details of the minimum expectations APRA has for a foreign ADI applicant to demonstrate it meets the prudential requirements are covered in Chapter 3. The expectations in Chapter 3 are applied on a proportionate basis and are not exhaustive. Overseas banks should discuss with APRA the specific requirements for their application which may differ depending on the proposed business model.

Documents supporting the application should be largely final and approved by the relevant management, and/or governance body ahead of submitting to APRA.

External advisors

Applicants may use external advisors to facilitate or provide structure in preparing their application. However, the applicant is ultimately responsible for how its frameworks operate and how risk is managed within its organisation and the information provided to APRA. Where applicants engage external consultants, APRA expects that the applicant reviews and understands the information provided by the consultants to ensure it is appropriate for the size, nature and complexity of the proposed operation and aligns with the applicant's risk profile. APRA will test, through discussions and onsite visits during the licensing process, how an applicant's frameworks will be implemented and used by the business.

While overseas banks may have global documents which align to the required supporting information, it is important to note that these documents do not supersede APRA's prudential requirements. Where there is a conflict between the overseas bank's global processes and procedures and APRA's prudential requirements, an overseas bank must demonstrate how it will meet APRA's prudential requirements.

A checklist⁵ has been provided in Attachment B which aligns to all the sections in Chapter 3 and provides a list of minimum supporting documentation that is expected to be supplied with the application. APRA may request additional information from an applicant as is necessary to assess the application. While the information is presented as a set of specific documents, it may suit an applicant for certain information to be presented in a different manner.

Do applicants need to create documents especially for APRA?

No, the documents supplied during the licence application as supporting information should be the same policies and procedures that it is intended the staff of the applicant's Australian branch will use. The policies and procedures supplied should form the applicant's Australian branch 'manual of operations' such that a new branch employee can understand the business of the branch and how risk is managed.

2.4.2 Self-assessments

Applicants are expected to perform a self-assessment of the policies and procedures that will be used by their Australian branch against the relevant APRA prudential standards and prudential practice guides (PPGs) to ensure that the principles as stated within the standards and guides have been adequately addressed. A self-assessment consists of a paragraph by paragraph review of the requirements of the prudential standard and cross references the relevant clause in the applicant's policies or otherwise contains an explanation as to why a requirement is not applicable. The purpose of the self-assessment is to enable management and the SOOA to gain comfort that the applicant will meet the requirements, or alternatively, highlight areas of non-compliance that may lead to further discussions with APRA. APRA

⁵ APRA may from time to time update this checklist to reflect any changes in prudential standards or APRA's expectations. Updated checklists will be made available on APRA's website.

may ask to see an applicant's self-assessment. An example of a 'best practice' self-assessment is available at Attachment C.

In the event that an applicant is unable to meet a prudential requirement, there may be exceptional circumstances where APRA will consider a request to adjust or exclude a requirement, for example where the proposed business model is substantially different to existing models and it is not possible under this business model to comply with the requirement.

A request for an adjustment or exclusion of a requirement may not be approved. Applicants should factor in additional time for the review of any request and have alternative arrangements if the request is not granted.

PPGs provide guidance on APRA's view of sound practice in particular areas. The PPGs aim to assist ADIs in complying with the requirements in the prudential standards. As they set out practices which APRA considers prudent and sound, where an entity does not follow the guidance in the PPGs they should provide their rationale for not doing so.

Common issues encountered during application

- The applicant is proposing to have a material amount of its substantive operations and book of business offshore.
- The supporting information submitted focuses on the group operation, not the Australian operation. APRA's assessment of the application will focus on the overseas bank's operations in Australia, as such the Australian branch's business plan and documents should focus on the Australian operations i.e. the specific business the proposed branch will conduct and how the associated risks will be managed. APRA would expect the Australian operations to be at the forefront of the business plan/policies with group operations explained only where necessary in the context of Australian Branch operations.
- The applicant has not demonstrated it will maintain local staffing sufficient to demonstrate adequate local control over the Australian business and compliance with all of APRA's prudential requirements applicable to foreign ADIs.

2.4.3 How to submit

APRA uses a secure document portal for submission of applications and supporting information. Applicants must provide APRA with the details of individuals who will be responsible for submitting the application. Access to the secure document portal will then be arranged for the selected individuals representing the applicant.

Documents should be submitted via APRA's secure portal. APRA prefers that applicants submit documents in no more than one to three batches rather than individually or in small groups. APRA expects the first batch to include at a minimum details of applicant's business plan, financials, governance and ownership, and risk management strategy. When submitting information in regards to specific risk classes, all of the documents for one risk class should be submitted together to enable efficient review.

If an applicant chooses to submit their supporting information in multiple batches, the first batch should include an index of all the documents to be submitted, what each document covers and which batch each document will be included in. Documents need to be consistent and coherent with documents submitted in prior batches.

If information submitted as part of an application changes while APRA is still considering the application, applicants should inform APRA as soon as possible.

Each policy, procedure or other document should be submitted as a separate file, with a clear numbering system and document title to facilitate navigation of the documents. Where minimum supporting information is contained within another document its location should be clearly stated. APRA does not require applicants to submit hard copy documents.

Application confidentiality

While APRA will treat information given to it during the course of a licence application in confidence, the information is not covered by the secrecy provisions in section 56 of the [Australian Prudential Regulation Authority Act 1998](#) and could be subject to a Freedom of Information request. Applicants may therefore wish to mark their documents to APRA as “commercial in confidence” where appropriate.

Resubmissions

While APRA expects the documents being submitted as part of an application to be largely final, circumstances can require applicants to resubmit documentation. For instance, where there has been a material change to the applicant’s business or if APRA has provided feedback which it requires the applicant to incorporate in its documentation.

When providing resubmission of documents to APRA applicants should provide a tracked changes version of the original submission as well as a ‘clean’ copy of the revised document. This is so APRA can focus on the revisions rather than having to re-review a document in its entirety.

Resubmissions should be provided with a cover note or email to APRA detailing the rationale for resubmission, with a brief summary of the changes.

Document names

APRA’s records management system does not support the inclusion of the following special characters & " ' ? < > # { } % ~ / \ in file names, accordingly applicants should refrain from including these in the file names of documents provided to APRA. To assist with version control in the case of resubmissions applicants should include the version number in the file name. The version number should relate to the version supplied to APRA and not necessarily the number from the document’s own version control. For example, first submission documents would be marked V1, if resubmitted to APRA the resubmitted versions would be V2 – tracked / V2 – clean.

2.4.4 Application fees

All applicants are required to pay an application fee prior to APRA commencing its detailed assessment of their application. APRA will provide applicants with an invoice for the application fee once APRA has received a significant component of the expected application documentation.

The fees for licence applications are available in the Licensing section of APRA's website⁶. Application fees are reviewed on a regular basis with the fees determined on a cost recovery basis. APRA's application fees, along with other charges and levies, are published in the annual Cost Recovery Implementation Statement.

For applicants which require an approval under the *Financial Sector (Shareholdings) Act 1998* (FSSA) for shareholding interests above the FSSA threshold, an application fee may also be applicable.

All application fees are non-refundable regardless of the outcome of the application(s).

APRA will issue applicants with an invoice for the application fee and the account details to make the Electronic Funds Transfer. To facilitate this, applicants should provide APRA with:

- Name of company (applicant)
- ABN⁷ of applicant
- Contact details:
 - name and position of contact
 - applicant address

2.4.5 Withdrawals

An applicant may withdraw its application at any time. Withdrawal requests must be submitted to APRA in writing and signed by two senior officers of the applicant.

During the course of assessing an application APRA expects to have regular engagement with applicants. If APRA does not hear from an applicant for a period of over six months APRA will write to the applicant asking if they wish to withdraw their application. If an applicant does not withdraw its application and continues to fail to engage with APRA, APRA will take steps to refuse the application on the basis that it has insufficient evidence to make an assessment that the applicant meets the prudential requirements.

Withdrawal of an application does not prejudice any future applications the entity may make; however, the application fee is non-refundable so any subsequent application would be required to be submitted with the applicable fee.

2.4.6 Other regulators

Applicants will also need to separately apply for licences/approvals for other non-APRA regulated/administered activities. For example, all foreign ADIs are likely to require an

⁶ [APRA's licensing process | APRA](#)

⁷ Applicants may provide an ARBN or an ACN if they do not have an ABN.

Australian Financial Services Licence (AFSL) or an exemption from ASIC. It is the applicant's responsibility to ensure it applies for such licences/approvals. APRA suggests that these are submitted to the respective regulatory body at the same time as the foreign ADI application. Examples of the most common additional approvals required are provided below. APRA may communicate directly with the regulatory bodies below as well as other regulatory bodies such as AUSTRAC regarding the application.

Australian Securities and Investments Commission

Applicants should contact ASIC regarding applications for an AFSL and/or Australian Credit Licence (ACL). APRA recommends applications for an AFSL or ACL be made at the same time as an application to APRA. APRA will not grant a foreign ADI licence if an applicant does not have the required ASIC licences (or exemptions) to enable it to commence business.

Reserve Bank of Australia

Applicants should contact the Reserve Bank of Australia (RBA) separately regarding requirements for establishing an Exchange Settlement Account (ESA). Applicants establishing ESAs are responsible for keeping the RBA apprised of the status of their application. Applicants may also choose to engage a locally-incorporated ADI as its ESA agent if it falls within the RBA's thresholds for not requiring its own ESA. Applicants may also need to contact the Australian Payments Network with regards to access to the payments system.

Australian Treasury

Where the applicant has foreign ownership, they are responsible for ensuring that they obtain relevant approval from the Foreign Investment Review Board (FIRB) as required under the [Foreign Acquisitions and Takeovers Act 1975](#).

2.4.7 Assumption of restricted words and expressions

Applicants whose company names contain a restricted word or expression will require consent from APRA in order to register with ASIC as a foreign company. Applicants will be granted consent subject at a minimum to the following conditions:

1. The restricted word or expression may only be assumed or used in relation to:
 - a) the registration of the applicant as a foreign company with ASIC;
 - b) obtaining membership of the Reserve Bank Information and Transfer System; and
 - c) such other activities as are necessary for the applicant to obtain authority from APRA under section 9 of the Banking Act.
2. If the applicant withdraws its foreign ADI licence application or is advised by APRA that its application has been refused, the applicant must revoke any registration it has made in relation to the restricted word or expression including those with ASIC.

Where APRA becomes aware of an applicant making use of restricted terms other than in relation to the above, APRA may seek an order under section 65A of the Banking Act restraining the making of such statements, and requiring other corrective action.

Misleading or inappropriate use of restricted terms will be looked at unfavourably by APRA when assessing a licence application. Applicants can check their proposed use of restricted terms with APRA if they are unsure whether the use is permitted under the consent.

2.5 Assessment

In assessing the application, APRA will seek to understand the risks the applicant's Australian business will face and its capabilities in addressing those risks. APRA will need to be confident that if the applicant is granted a licence it will:

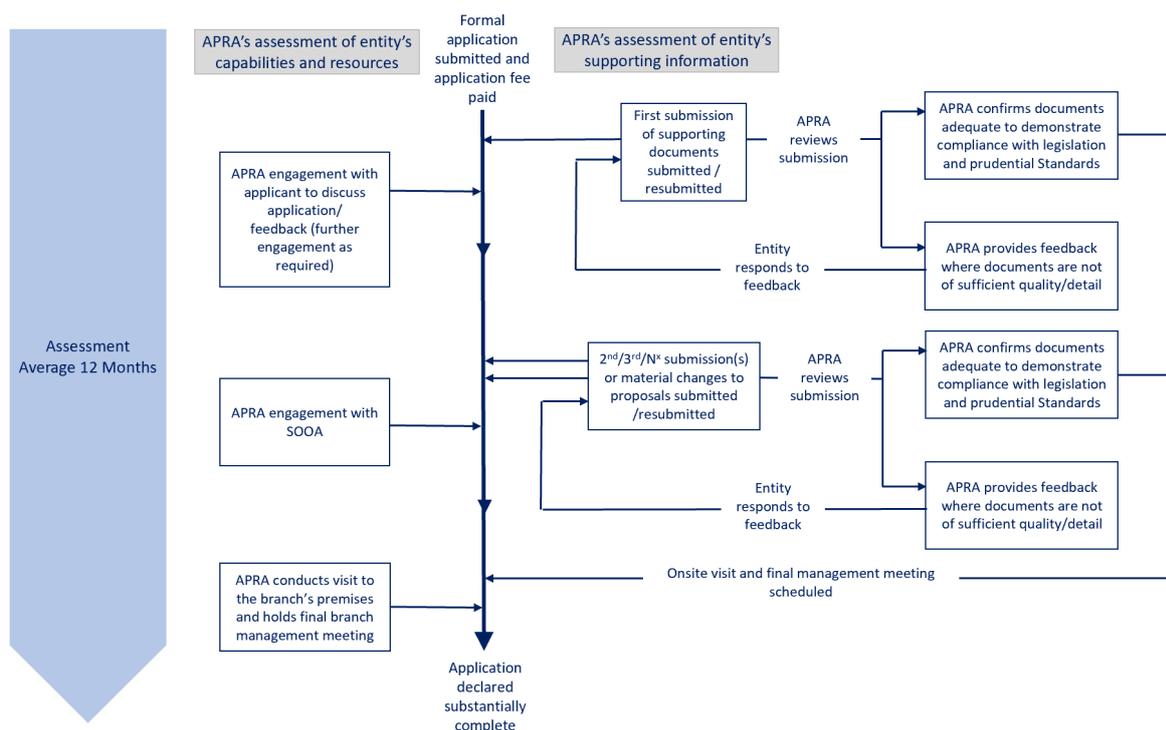
- be financially sound;
- manage its risks effectively, including having sufficient resources and capabilities;
- meet fit and proper expectations;
- on a proportionate basis satisfy all relevant prudential requirements;
- have a sound risk culture;
- not pose an undue risk to the stability of the financial system; and
- be open and honest in all its dealings with APRA.

Consistent with APRA's risk-based approach, the depth of APRA's assessment through the licensing process will be proportionate to the risks within the applicant's business.

APRA breaks down assessment of the application into three distinct components:

- **Formal application** – This is where an applicant makes their formal application under section 9 of the Banking Act for authority to conduct banking business in Australia. Applicants should be in the position to be able to provide a significant amount of the supporting documentation prior to making a formal application. However, if an applicant has not finalised some of the expected documentation when it submits its formal application it should indicate when the finalised supporting information will be provided.
- **Ongoing submissions** – As APRA assesses the applicant and its material, resubmissions may be required and additional material will be sought.
- **Substantially complete application** – An application where an applicant has demonstrated that it has sufficient financial and non-financial resources, and has submitted all of the expected supporting material which is of sufficient quality and detail to allow APRA to complete its assessment.

Figure 3. Assessment process



2.5.1 What happens when an application is submitted?

Once a formal application is received, APRA will review the information provided in the application and start to assess the application against the relevant requirements. APRA will provide feedback on the application and may request additional information, hold meetings with the applicant and review aspects of the applicant’s operations onsite.

Once APRA has received all of the expected supporting information which it considers is of sufficient quality and detail to enable it to make its decision on the application and the applicant has in place appropriate financial and non-financial resources to enable it to commence banking business in Australia on grant of a licence, APRA will determine the application to be substantially complete.

During the assessment phase, an applicant will be assigned a lead contact from APRA who will remain in contact with the applicant throughout the licensing process.

If an applicant makes material changes to the information submitted in support of its application, such as changes to its strategy, management etc., during the assessment or after APRA has agreed the application is substantially complete (see 2.6), this will impact the time taken for a licensing decision as APRA will have to assess the impact of the changes on the overseas bank’s application.

2.5.2 Document review and feedback

The document review and feedback by APRA is an iterative process designed to ensure that the documents submitted by the applicant are of the appropriate quality to demonstrate that the applicant is able, or is likely to be able, to meet its obligations and comply with the provisions of the Banking Act, APRA prudential standards and the [Financial Sector \(Collection](#)

[of Data\) Act 2001](#) (FSCODA). This is the foundational part of the licensing process. While the document review and feedback will continue to some degree until the application is deemed substantially complete, APRA will typically not progress to onsite reviews or final meetings with the SOOA until a substantive proportion of the licence application has been assessed.

APRA's role in reviewing policies/documents

APRA reviews documents during the licensing process to assess adherence to, and understanding of, prudential standards, as well as to obtain a view in regard to the competency of an applicant's staff. APRA does not approve the individual policies. Ensuring the policies are suitable for the entity is the responsibility of the board and management. APRA will seek to ensure during its assessment that the policies meet the necessary prudential requirements and that APRA has confidence that they can be implemented effectively ahead of granting a licence.

2.5.3 SOOA and management meetings

APRA will meet with individual members of management and the SOOA during the course of the assessment to discuss the entities business proposition, risk management and governance and readiness to operate as an ADI. The SOOA and management meeting(s) are designed to give APRA confidence that those who have influence and control over the applicant's Australian operations have the necessary skills, knowledge, expertise, diligence and soundness of judgement to undertake and fulfil the responsibilities involved. APRA typically schedules the final management meeting in conjunction with the on-site visit towards the end of the licensing process to discuss any outstanding issues material to the licence application.

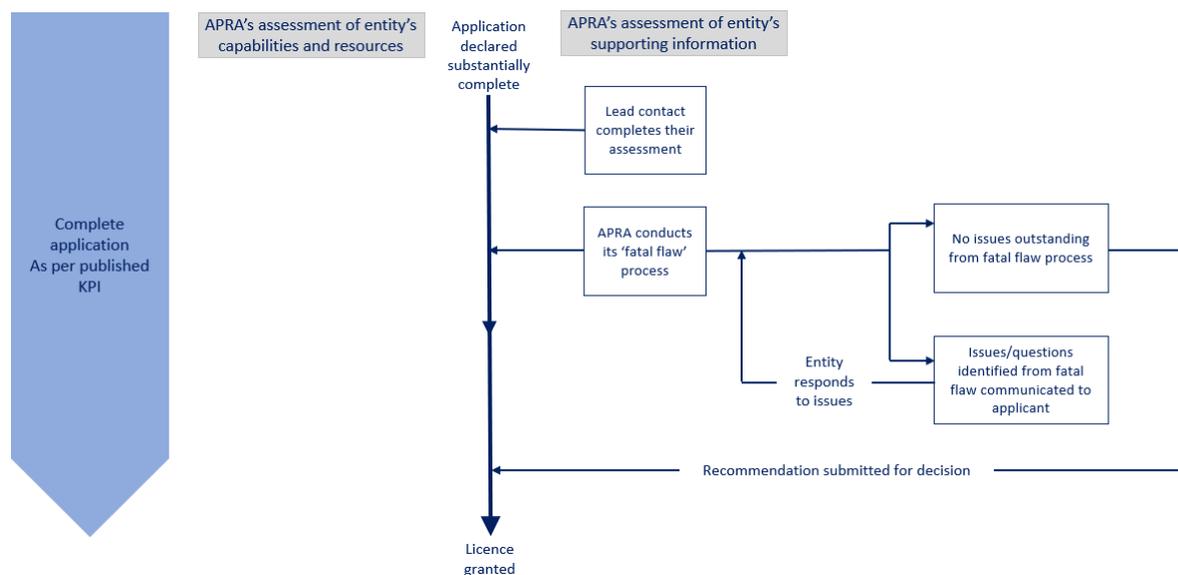
2.5.4 Site visit

APRA will arrange to visit the applicant's Australian branch premises to assist it in assessing the applicant's resources and ability to operationalise. The on-site visit will usually be scheduled towards the end of the licensing process.

2.6 Substantially complete application

APRA will advise an applicant when it considers their application to be substantially complete. APRA determining an application is substantially complete does not prevent APRA requesting further information it requires to make its decision.

Figure 4. Substantially complete application process



2.6.1 Fatal flaw review process

A recommendation by the lead contact in regards to the licence application is subject to a challenge process by APRA subject matter experts. Applications are not progressed to fatal flaw review unless the lead contact is satisfied that there are no unresolved substantial issues. However, the challenge process may bring up additional matters to be resolved ahead of a recommendation being made to the decision maker.

2.6.2 Decision process

The lead contact prepares a recommendation in relation to the outcome of the licence application for an independent decision maker (i.e. the lead contact will not decide whether to approve or refuse an application). A recommendation will only be submitted to a decision maker following the satisfactory resolution of any issues that arise from the fatal flaw review.

2.6.3 Reconsideration and review of decisions

A decision to refuse an application under section 9 of the Banking Act is subject to Part VI of the Banking Act – Reconsideration and Review of decisions. Under Part VI a person who is dissatisfied with a decision may request APRA reconsider the decision. The request for APRA to reconsider must be made within 21 days of the date the person was notified of the decision and must set out the reasons for the request.

From receipt of a request to review a decision APRA has 21 days to confirm, vary or revoke its decision. If APRA does not confirm, vary or revoke its decision within this timeframe then its decision is taken to be confirmed.

If the applicant is dissatisfied with the outcome of APRA's review then they may make an application to the Administrative Appeals Tribunal for a review of APRA's decision. Applicants should refer to Part VI of the Banking Act for full details of the reconsideration and review of decision process.

2.7 Timeframe

The timeframe to obtaining a licence varies, depending on the quality of the application, the complexity of the proposed arrangements, how clearly an applicant meets the requirements and how responsive the applicant is to APRA's requests throughout the assessment phase. It will also depend on the number of existing applicants in the licensing process. As a guide, applicants generally take twelve - eighteen months to receive a decision on their application from the date of their initial application. An applicant is considered to have made its initial application when it submits its first batch of documents to APRA along with its request under section 9 of the Banking Act for authority to conduct banking business in Australia.

APRA does not have a statutory obligation to make a licensing decision for ADI applicants within a set timeframe. However, once APRA is satisfied that it has a substantially complete application, a licensing decision is ordinarily made within 90 days.

Applicants should consider their own operational capabilities when submitting a licence application. APRA expects applicants to be fully operational and ready to launch on grant of a foreign ADI licence. If applicants are not able to demonstrate they are operationally capable of launching then any licence decision will likely be delayed until these capabilities are demonstrated.

Pre-application engagement will allow APRA to discuss timeframes that are likely for each applicant. It will also assist applicants in ensuring they have better prepared applications when entering the licensing process which will assist with timing.

2.8 Post licensing

Foreign ADIs must continue to meet APRA's prudential standards, proportional to their business, and provide relevant information to show they are meeting these standards. Foreign ADIs will also be subject to ongoing supervision by APRA and to an annual supervisory levy.

2.8.1 Supervision

Once an overseas bank has been granted a foreign ADI licence it will be allocated to one of APRA's frontline supervision teams where it will be subject to ongoing supervision against its compliance with APRA's prudential requirements. APRA supervisors do this by examining data and reports about institutions and the broader financial sector (off-site analysis), and by visiting supervised institutions to speak to staff and, where appropriate, examine records and files (on-site analysis). APRA's supervision aims to identify potential financial or operational weaknesses in an institution as early as possible, and aim to ensure these are rectified before they can threaten its safety and soundness.

APRA's approach to supervision is underpinned by its Supervision Philosophy⁸. APRA's Supervision Philosophy is aligned with its mandate, and vision for financial resilience and supervisory excellence. Central to the philosophy are three core elements – risk based,

⁸ [APRA's Supervision Philosophy | APRA](#).

forward looking and outcomes focussed and these are supported by five foundational elements that describe the key areas of emphasis for supervision. Grounded on the three core attributes of APRA's Supervision Philosophy is APRA's Supervision Risk and Intensity (SRI) model⁹ which sets out how APRA will assess the level and nature of risk within each APRA regulated entity.

2.8.2 Reporting

Under the FSCODA, APRA collects information for the purposes of performing its functions and publishing information on the financial sector industries. APRA also provides information to other financial sector agencies such as ASIC. As a licensed foreign ADI, you will be required to provide regular reporting to APRA under the FSCODA.

More information about your reporting requirements under the FSCODA, and any additional reporting relevant to your business, can be found on APRA's website¹⁰.

2.8.3 Supervisory levies

Regulated institutions are subject to an annual levy. The levies are set to recover the majority of the operational costs of APRA, and other specific costs incurred in relation to the financial sector by certain other Commonwealth agencies and departments. The levies are imposed to ensure the full cost of regulation is recovered from those that benefit from it (that is, institutions that are regulated). For more information see the industry levies section of APRA's website¹¹.

⁹ [Supervision Risk and Intensity \(SRI\) Model | APRA](#).

¹⁰ [Reporting resources for authorised deposit-taking institutions | APRA](#).

¹¹ [Industry fees and levies | APRA](#).

Chapter 3 - Foreign ADI application: minimum expectations

The expectations set out in this chapter represent the minimum requirements that an applicant is expected to meet for a foreign ADI licence, and should not be taken as an exhaustive list. These guidelines are not a substitute to the requirement for applicants to read and familiarise themselves with the prudential standards and PPGs. APRA may refuse an application on other prudential grounds not covered in these guidelines.

3.1 Application for authority under the Banking Act

Applicants are required under section 9(2) of the Banking Act to apply in writing to APRA for authority to conduct banking business in Australia. As such applicants should submit a covering letter formally requesting APRA consider their application for authority under the Banking Act as a foreign ADI.

An application under section 9(2) must also be accompanied by a copy of the document by which the body corporate is constituted.

The covering letter must be signed by a senior officer of the applicant and include a statutory declaration that the information supplied to APRA in regards to the application is true and correct to the best of the individual's knowledge.

Providing information to APRA

When providing information to APRA, applicants should note that section 137.1 of the [Criminal Code Act 1995](#) makes it an offence to give false or misleading information to a Commonwealth entity or to a person who is exercising powers or performing functions under, or in connection with, a law of the Commonwealth, or to omit any matter or thing without which the information is misleading. The penalty for this offence is 12 months imprisonment.

3.2 Ownership and group structure

APRA needs to understand who owns and controls the applicant and the relationships the applicant might have with other individuals or institutions.

Applicants will need to provide a group structure chart showing the ownership structure and ultimate shareholders of the overseas bank as well as any branches, subsidiaries and any related companies. The chart should include details of related entities business and any linkages with the Australian branch (e.g. service provision arrangements and funding arrangements).

Where an overseas banking group is not publicly listed it should provide details of its 20 largest shareholders. As a minimum the applicant should provide details of the shareholders' long-term commitment to the applicant, their financial standing, the source of their funds and their ability to provide future capital, and their fitness and propriety.

Financial Sector (Shareholdings) Act 1998 (FSSA)

Ownership of ADIs, including foreign ADIs, and their holding companies is governed by the [Financial Sector \(Shareholdings\) Act 1998](#) which limits the control of an individual shareholder, or group of associated shareholders, over the voting power in an ADI to a defined percentage of the ADI's voting power (in the case of foreign ADIs it would be the overseas bank's voting power). Shareholders who hold a stake in excess of the FSSA limit are considered to have an unacceptable shareholding. A higher percentage limit may be approved by the Treasurer or their delegate, subject to criteria set out in the FSSA.

Where a group of associates holds a stake that exceeds the FSSA threshold, each associate will need to submit an FSSA application for approval to exceed the FSSA shareholding limit. If the application is within the Treasurer's delegation to APRA, APRA will make a decision on the increased shareholding limit as part of the licensing assessment. Otherwise APRA will provide advice to the Treasurer, who will make the final decision.

Shareholders with stakes in excess of the FSSA limit should submit their own applications for approval under the FSSA to APRA. Ideally these should be submitted at the same time as the foreign ADI application. The foreign ADI applicant may submit an FSSA application on behalf of all of the relevant shareholders providing they have been authorised to do so by the relevant parties.

If the overseas bank is a wholly owned subsidiary of another company then that holding company is also a financial sector company under the FSSA and its shareholders would also be subject to the FSSA approval requirements.

3.3 Business model

The applicant's description of its proposed business in Australia is an important part of the overall application and integral to APRA's decision making. The amount of detail submitted should be proportionate to the scale and complexity of the proposed business and to the risks associated with the proposed business.

3.3.1 Business plan

Applicants should set out the business model for their Australian branch in a branch business plan in sufficient and granular detail to explain why their proposed business models will be successful, i.e. viable (in the short term) and sustainable (in the longer term). The business plan should focus on the operations in Australia and should only reference group operations where necessary to explain the context of the Australian business. The applicant should submit its business plan which as a minimum must:

- set out the rationale for applying to establish an Australian branch;

- provide details of products, delivery channels and target market, including all the regulated and unregulated business that the branch intends to carry out;
- detail how any existing business of Australian clients is intended to be moved into the branch (if applicable);
- detail the booking model for the Australian branch for all proposed products and whether they will be booked onshore or offshore, and how businesses booked offshore will be reported to APRA;
- demonstrate the ongoing viability of its business proposal, including its competitive advantage, referring to appropriate supporting material and market research;
- demonstrate that the business will run in a prudent manner, i.e. will have appropriate financial and non-financial resources to manage its risks in Australia
- set out the proposed funding model and liquidity strategy;
- identify all the likely business and regulatory risk factors and explain how it will monitor and control these risks;
- clearly identify the group structure, in particular how the branch will sit within the group and the overseas bank owners and controllers;
- indicate the proposed resourcing of roles critical to obtaining a foreign ADI licence and any further roles to operationalise the branch going forward;
- include details of planned key outsourcing (and service provision by head office or other group companies) arrangements (as far as they are known); and
- provide details on planned IT infrastructure and systems, highlighting key dependencies of the Australian branch and any material outsourcing arrangements.

Highly globally integrated ‘brass plate’ foreign ADIs

APRA has generally taken the position that overseas banks soliciting and operating an active business in Australia should be subject to Australian prudential regulation and supervision (consistent with the Basel Committee on Banking Supervision’s principles on home-host country supervision). APRA therefore does not support foreign ADIs operating highly globally integrated “brass plate” branches in Australia. An Australian branch of a foreign ADI is expected to be able to operate on a semi-stand-alone basis. It is expected to book its Australian business in the Australian branch (unless otherwise agreed by APRA, see Chapter 4 for further information) and is expected to maintain local staffing sufficient to demonstrate adequate local control over the Australian business and compliance with all of APRA’s prudential requirements applicable to foreign ADIs.

Over time, reflecting the global nature of banking business and the centralisation of many functions, overseas banks operating in Australia as branches have conducted some aspects of their local operations from offshore or outside the branch. In general, APRA does not have a fundamental concern with these types of operational structures but notes that they have the potential to lessen APRA’s ability to provide effective prudential supervision of the local operations. APRA will not grant a foreign ADI licence to an overseas bank that proposes a highly integrated global model where all of its substantive operations and book of business will be offshore.

3.3.2 Organisational structure

Applicants are expected to demonstrate that the proposed branch will have an appropriate organisational structure, and sufficient personnel in Australia to carry out its business plan. Applicants should provide a structure chart which should tell APRA about the branch's key officers, their responsibilities within the structure of the institution and where they are located. It should clearly show:

- the names of significant staff (e.g. branch manager, senior management);
- the function(s) for each individual;
- number of direct reports for each individual;
- direct reporting lines into the SOOA, branch and group committees, where applicable; and
- any roles which are currently vacant and when the applicant intends to recruit for these roles.

3.3.3 Financial projections

Applicants are expected to provide five years of financial projections for the Australian operations. The projections should provide sufficient detail to demonstrate that the branch can continue to meet its regulatory liquidity requirements.

The projections should include:

- a full balance sheet and profit and loss statement accompanied by assumptions;
- key financial and prudential ratios; and
- a sensitivity analysis showing up-side and down-side scenarios.

3.4 Governance, culture, remuneration and accountability

3.4.1 Senior officer outside Australia

Foreign ADIs are required to meet APRA's prudential standard in respect to Governance. However, as the branch of a foreign ADIs is not a separate legal entity, it does not have to have a separate board in Australia. Instead, the SOOA is considered as the delegate of the foreign ADI's board and is responsible for the oversight of the Australian branch operations. APRA expects the appointed SOOA to have appropriate experience and seniority and be able to meet with APRA at our request.

3.4.2 Branch senior manager

Applicants are required to have a senior manager located in Australia who is responsible for the local operations. Applicants are expected to demonstrate that the proposed senior manager has the appropriate skills and experience to manage the operations of the Australian branch. Applicants may start the application process with their proposed senior manager located overseas, however APRA will not grant a foreign ADI licence until the senior manager has obtained all necessary approvals to allow them to live and work in Australia and has officially relocated.

3.4.3 Staff

Applicants should ensure that key personnel responsible for the operation and risk management of the Australian branch possess an appropriate level of technical knowledge and experience to carry out their responsibilities. In addition, remuneration arrangements should not incentivise excessive risk taking by the key personnel responsible for managing risk.

Appropriate local resources

Reflecting the global nature of banking business and the centralisation of functions, overseas banks operating Australian branches tend to conduct some aspects of their operations from offshore. APRA may accept proposals from foreign ADI applicants to utilise their head/regional office to conduct some of the Australian Branch's back office operations. However, the applicant should not assume that it can apply the same model used in other jurisdictions and must demonstrate how their local resourcing is adequate to meet APRA's requirements and expectations for risk management as outlined in the prudential standards; and that the proposed offshore operations are in-line with the overseas bank's approach to managing its operations globally.

3.4.4 Conflicts of interest

Applicants must demonstrate how they will identify, disclose and manage any actual, potential or perceived conflicts of interest within the Australian branch and business. Applicants should provide their conflicts of interest policy and where conflicts have been identified, or arise during the licensing assessment process, applicants should advise APRA of how they are managing the conflict.

3.4.5 Risk culture

Risk culture is an entity's behaviours and attitudes towards risk taking and risk management. It is the "norms of behaviour for individuals and groups that shape the ability to identify, understand, openly discuss, escalate and act on an entity's current and future challenges and risks". Risk culture is not separate to organisational culture but reflects the influence of organisational culture on how risks are managed.

An applicant's risk culture plays a critical role in ensuring board and SOOA-approved statements of appetite and policy are translated into practices that deliver sound prudential outcomes. Applicants are expected to be able to demonstrate that they have organisational values and beliefs in place which promote behaviours that support robust risk management and decision making and that effective risk frameworks and clear accountabilities are in place.

3.4.6 Remuneration

Applicants must demonstrate that they have remuneration practices which do not promote excessive risk taking and which meet the requirements of APRA's standards and the relevant accountability regime. APRA expects applicants to have established performance-based incentive structures that align remuneration outcomes with good risk management and the long-term soundness of their institution.

Applicants must satisfy APRA that they are able to defer or reduce an accountable person's variable remuneration.

If a foreign ADI is covered by a group Remuneration Policy, it may rely on that policy provided that the policy satisfies APRA and accountability requirements. The applicant may need to adjust or have an addendum to the group policy to ensure it meets Australian requirements. APRA recommends applicants seek their own legal advice with regards to whether they meet the relevant accountability regime remuneration requirements.

3.4.7 Accountability

Applicants must satisfy APRA that they are able to meet their accountability¹² obligations. An applicant is expected to identify its accountable persons, and demonstrate how accountability will work in practice within the organisation.

3.4.8 Fit and proper and responsible persons

Applicants must satisfy APRA that they have policies in place to ensure that persons who hold key positions within the proposed branch are fit and proper, in accordance with APRA's Fit and Proper standards.

Applicants should provide their SOOA-approved Fit and Proper Policy and the assessments conducted in accordance with the policy on persons holding key positions. Where key persons are hired during the licensing assessment, the applicant should provide fit and proper assessments of those individuals to APRA as soon as possible.

Fit and proper assessments

Fit and proper assessments should clearly articulate how the applicant has determined that an individual is both fit (i.e. has the skills, experience and qualifications) and proper (i.e. is of good repute and moral character) for the role. Self-declarations are not sufficient. Where an individual has made a disclosure or negative information has been sourced from probity checks, this should be addressed in the assessment with details on how the applicant assured itself that the disclosure/information does not impact on the individual's fitness and propriety in relation to their proposed role.

3.5 Operational resilience

3.5.1 Risk management

Applicants must satisfy APRA that their Australian branch's proposed (or existing) risk management and internal control systems will be adequate and appropriate for monitoring and limiting the applicants risk exposures in Australia from the date of licensing. Applicants will be expected to provide evidence of their risk identification, assessment and controls creation processes.

¹² At the time of publication, the relevant accountability regime for foreign ADIs is the Banking Executive Accountability Regime (BEAR). The BEAR will be replaced with the Financial Accountability Regime in 2022.

APRA expects applicants' Australian branch risk management frameworks to:

- include a risk management approach that provides a comprehensive strategy to effectively manage the risks, including a risk management system which supports the implementation of the strategy and the risk management framework;
- include processes for establishing risk appetite and how this is monitored including escalation procedures when risk limits are breached;
- include clearly defined roles and responsibilities of the SOOA, senior management, governing bodies and individuals for each material risk;
- consider the risks the branch faces both at a branch wide level and at a product and service level;
- include an analysis of changes to internal and external environments across the business for potential impact to the risk profile;
- ensure the underlying causes and drivers of risk issues and incidents are identified and analysed, including consideration of the potential for ineffective or inadequate systems, processes, and people;
- ensure the control environment remains effective to mitigate risk exposures, especially, whenever there are changes in the business;
- include a risk management function that provides effective assurance over the completeness and accuracy of the data and information, and consequently, the resulting risk profile, and an internal audit function which provides assurance on the effectiveness of controls and implementation of the risk management framework; and
- include risk reporting that provides timely, complete and accurate data and information that informs the SOOA, risk committees and senior management that there has been a material shift in the risk profile, including risks exceeding risk tolerances and appetite that they need to act on.

Applicants are also expected to have:

- established a risk management capability for each material risk commensurate with the risk exposures; and
- a risk management system that effectively supports the implementation of its risk management framework for each material risk.

Use of group policies

Foreign ADIs are required to have local policies and procedures which provide adequate guidance to local staff and allow appropriate management oversight. APRA acknowledges that it is common for branches of overseas banks to place reliance on group frameworks and policies in the management of their risks and operations. APRA may accept certain local policies and procedures as an addendum to the group policy/procedure, providing such addendums have sufficient content for local staff and meet APRA's prudential standards. It is important to note group policies do not supersede APRA's prudential requirements. Where there is a conflict, a foreign ADI must demonstrate it meets APRA's prudential requirements.

In assessing whether the policies and procedures proposed for identifying, managing and controlling risk are adequate and appropriate for the applicant's operations, APRA will take account of the size, nature and complexity of the operations, the volume of transactions

undertaken, the proposed organisational structure, and the geographical distribution of the business as set out in the business plan.

Chief Risk Officer

Consistent with APRA's prudential standards, foreign ADIs are required to have an individual responsible for the risk management function of the foreign ADI's Australian operations (referred to in the standards as a CRO). APRA expects the CRO to be located in Australia. APRA will consider, on a case by case basis, the need for the CRO to be based offshore for an initial interim period (for example, until the branch has significant operations). Applicants will need to demonstrate that an offshore CRO will have sufficient oversight to manage the risks of the Australian branch. Any exemption request should set out the applicant's plans for hiring a local CRO including clearly identified non-subjective criteria (such as balance sheet size) that will result in the immediate appointment of a local CRO.

3.5.2 Credit risk

An applicant will need to demonstrate to APRA that it has appropriate policies, procedures and systems in place to meet the credit requirements of APRA's prudential standards and to manage and monitor the credit risk arising from the proposed business of its Australian branch.

APRA will need to understand:

- the applicant's credit risk appetite and lending strategy;
- the types of products that the applicant will offer/offers in Australia and the proposed composition of the applicant's credit portfolio;
- the ongoing review and oversight of the Australian credit portfolio by the applicant; and
- the location of credit risk resources across the three lines of defence.

In assessing an applicant's Australian branch credit risk management framework, APRA will have regard to the following (non-exhaustive):

- overview of the credit risk management framework and structure, including the credit approval structure, credit risk functions and committees (transactional and oversight);
- responsibilities and accountabilities under each of the three lines of defence framework for the end to end lending process;
- governance and reporting to senior management and the SOOA. Adequate risk monitoring to identify and measure all material credit risk exposure and provide senior managers and the SOOA with timely reports on the financial condition and credit risk profile of the branch's loan portfolio;
- control and review of credit policies/underwriting standards & procedures and systems for originating, managing and monitoring credit risk exposures;
- process around the use, approval and monitoring of serviceability overrides/exceptions to credit policy; and
- use of third parties (if applicable) – accreditation and on-going review, monitoring and reporting framework and remuneration/compensation arrangements.

3.5.3 Market and investment risk

Applicants will need to demonstrate to APRA that they can manage the market and investment risks arising from their Australian operations.

Market risk comprises both traded and non-traded risk. Traded market risk applies to foreign ADIs which engage in activities that give rise to risks associated with potential movements in market prices, for example, proprietary trading. Non-traded market risk applies to all foreign ADIs. Note, typically APRA applies a higher level of supervisory scrutiny to branches that undertake traded market risk activities than those that do not.

In assessing an applicant's Australian branch's market and investment risk management, APRA will have regard to the following (non-exhaustive):

- appropriate risk limits for exposures, including counterparty limits where relevant;
- approved products for the use of managing market risk;
- appropriate management and monitoring of exposures/investments; and
- governance arrangements and reporting to senior management and the SOOA.

Applicants which intend to undertake traded market risk activities in Australia will be expected to demonstrate they have appropriate policies, procedures and systems in place to manage and monitor the market risk arising. These applicants will be expected to provide additional information such as their Australian branch traded market risk policies and trading book policy statement.

Interest rate risk in the banking book

As non-traded market risk applies to all foreign ADIs, applicants are expected to have a market risk policy detailing how they manage interest rate risk in the banking book (IRRBB). APRA does not have a specific prudential standard for IRRBB for non-advanced ADIs. However, APRA uses the qualitative provisions in the IRRBB prudential standard and PPG for advanced ADIs as a guide to assessing, on a proportionate basis, appropriate market risk frameworks for all ADIs including foreign ADIs.

3.5.4 Operational risk

APRA expects applicants to have an effective understanding of their operational risks in Australia. Applicants will need to demonstrate to APRA that their Australian branch has appropriate policies, procedures, controls and systems in place to manage and monitor the operational risk arising from its proposed business at the point of licensing.

APRA will need to understand:

- the types of operational risks the Australian branch will be exposed to;
- the applicant's operational risk appetite for the Australian branch; and
- the ongoing review and oversight of the operational risk exposures by the branch.

In assessing the applicant's Australian branch operational risk management, APRA will have regard to whether the applicant is able to demonstrate that they meet the operational risk requirements in APRA's prudential standards and have the following (non-exhaustive):

- a risk management system that supports the implementation of its operational risk management framework;
- a robust outsourcing framework which should include how the branch will manage and monitor its material outsourcing arrangements (refer to 3.5.5);
- effective business continuity management (refer to 3.5.6);
- an appropriate fraud risk management framework for internal and external fraud;
- a formal methodology for project management covering how projects are developed and implemented; and
- a robust new/varied product management framework outlining methodology and formal process for introducing new/varied products.

3.5.5 Service provider management, including cloud computing services

APRA expects that the documentation provided as part of the licence application clearly demonstrates that the proposed branch has (non-exhaustive):

- clearly defined the service provision-related roles and responsibilities of the SOOA, senior management, governing bodies and individuals;
- established service provision management capability commensurate with the materiality of the reliance on service providers, and which enables the continued sound operation of the branch;
- identified and classified service providers and associated services by materiality; and
- controls in place to manage related party and third-party risks at each stage of a service provision arrangement.

Offshoring and outsourcing

Operations and/or functions that are being conducted from the overseas bank's head office, other offshore branches or related entities within the group will need to meet the requirements in APRA's outsourcing standard. For material activities being provided by other branches or the head office, (i.e. are being conducted within the same legal entity) a documented internal service level agreement between the branch and relevant off-shore office (as opposed to a formal legal outsourcing agreement) will suffice in demonstrating the outsourcing standard requirements are met.

3.5.6 Business continuity

APRA expects applicants to be able to demonstrate that they meet the business continuity requirements of APRA's prudential standards and have in place, for the Australian branch, established business continuity plans and arrangements (for plausible disruption scenarios impacting critical business services) which enable the continued sound operation of the branch and have undertaken testing to validate their business continuity capability.

Applicants are also expected to be able to demonstrate that their Australian information assets¹³ are recoverable and that they have back-up strategies in place such as replication, point-in-time and out-of-band backups.

3.5.7 Compliance risk

Applicants must satisfy APRA that their Australian branch compliance processes and systems are adequate and appropriate. The expectation is that the framework will articulate the systems, processes, and practices for ongoing adherence to legal and regulatory requirements, and ensuring compliance with internal policies and procedures.

Privacy and anti-money laundering and counter-terrorism financing (AML/CTF)

Applicants must attest to APRA that they have a SOOA approved privacy policy and AML/CTF Program for their Australian operations which meet the requirements of the relevant legislation. APRA does not require copies of the documents to be submitted.

Applicants must confirm to APRA once they have registered as a designated service provider with AUSTRAC.

3.5.8 Information technology including information security

APRA acknowledges that branches of overseas banks tend to adopt a majority of the IT systems used by their head office and rarely have bespoke branch specific systems. Notwithstanding, applicants will need to demonstrate that:

- an appropriate IT management and control framework is in place for the Australian branch. This must include a robust security (including cyber) risk management framework;
- management of Australian branch IT Risk is integrated with management of Operational Risk as part of the applicant's wider risk management framework; and
- the Australian branch has an established an information security and business continuity capability, and implemented controls commensurate with the criticality and sensitivity of their information assets.

In addition, applicants should ensure there is clarity concerning any outsourcing involving (shared) computing services, both to third parties, head office and related bodies corporate

¹³ Information assets has the meaning given in APRA's prudential standards. At the time of publication, the relevant Prudential Standard was CPS 234 Information Security.

such as parent entities. To gain assurance regarding outsourced (IT) functions, APRA may require access to third party service providers and/or the head office/parent entity.

The supporting information list in Attachment B part 12 is in regards to an applicant which is utilising established systems. Where an applicant will have branch specific systems, APRA is likely to require more information and its technology resilience specialists may meet with the applicant to discuss the design, build, operation, governance and security of the branch's IT systems.

3.5.9 Audit

Applicants must demonstrate to APRA that arrangements have been established for the Australian branch with external auditors and demonstrate the appropriateness of the internal audit function for the branch (whether the function is outsourced or not) and the adequacy of the audit coverage and approach in providing the independent assurance role (i.e. third line of defence).

3.6 Financial resilience

3.6.1 Capital

Foreign ADI applicants are expected to demonstrate that they meet comparable capital adequacy standards in their home country, which must be consistent in all substantial respects with the Basel III Capital Framework.

Foreign ADIs are not required to meet local capital requirements, however the Banking Act requires a foreign ADI's assets in Australia be available to meet its Australian liabilities in priority to all other foreign liabilities, in circumstances where the foreign ADI (whether in or outside Australia) suspends payments or becomes unable to meet its obligations. Applicants should demonstrate how they will ensure sufficient assets will remain in Australia to meet the branch's Australian liabilities.

Stress testing framework

Applicants are expected to perform stress tests for the Australian branch on a regular basis for a variety of short-term and protracted institution/branch-specific and market-wide stress scenarios (individually and in combination i.e. a combined institution/branch and market wide scenario) to identify sources of potential strain and to ensure that their exposures remain in accordance with the proposed risk appetite. The stress testing framework is expected to include articulation of severe but plausible stress scenarios with clearly documented assumptions used for each scenario. Where the Australian branch of a foreign ADI is included in its stress testing regime, the applicant should demonstrate how the branch forms part of that regime, i.e. how the branch impacts and is impacted by the foreign ADI's stress tests.

APRA also expects applicants to review stress test outcomes to adjust their risk appetite and funding strategy/plan.

3.6.2 Liquidity risk

An applicant will need to demonstrate to APRA that it has a robust liquidity risk management framework and ensure that it meets the prudential liquidity risk requirements in APRA's standards. APRA expects that the documentation provided as part of the licence application clearly describes the level of liquidity risk that the applicant's Australian branch is willing to assume and strategies to maintain sufficient liquidity to meet its obligations as they fall due at all times. A common issue observed in licence applications is that an applicant's Australian branch liquidity risk management framework does not demonstrate clear linkage between the liquidity risk appetite statement, funding strategy/plan, stress testing framework and contingency funding plan to meet this expectation.

In assessing an applicant's Australian branch liquidity risk management, APRA will have regard to the following (non-exhaustive):

- formally approved funding strategy and liquidity policy;
- liquidity risk appetite and tolerance including limits, targets for key liquidity metrics and transparent monitoring against those risk tolerances. Risk limits and tolerances should include appropriate buffers above regulatory requirements;
- maintaining a diversified liquid asset portfolio (where possible);
- procedures and controls to identify, measure, monitor and control liquidity risk;
- appropriate governance for liquidity monitoring and breach reporting to senior management and the SOOA;
- a contingency funding plan that is robust and operational; and
- the branch's capacity to liquidate assets and make or receive payments without assistance from staff located outside Australia (local operational capacity).

Liquidity framework

Foreign ADIs are required to hold a minimum level of liquid assets. Unless APRA determines otherwise, as per the liquidity requirements in APRA's prudential standards a Foreign ADI must hold appropriate levels of liquid assets as determined by the liquidity coverage ratio (LCR) framework. APRA will consider applications from foreign ADI applicants to commence operations under the minimum liquidity holdings (MLH) framework. Applications to commence on the MLH framework will only be granted in exceptional circumstances and only for a limited period after which the foreign ADI will be expected to transition to the LCR framework.

3.6.3 Contingency planning

Applicants are expected to be able to demonstrate how they will respond to a financial stress that threatens the viability of the Australian operations. APRA may request applicants to submit a contingency plan for the Australian operations, which demonstrates how the financial resilience of the Australian operations can be restored ('recovery'), or how an orderly and solvent exit from Australian banking business can be executed ('exit'). Any exit option included in the contingency plan must be capable of executing an exit from Australian banking business without reliance on the use of APRA's resolution powers and without an impact on Australian financial stability.

APRA may also request information from the applicant's head office recovery plan that is relevant to the ability of the Australian operations to recover, including how the Australian operations will be supported by the head office in the event of stress.

3.7 Other requirements

3.7.1 Depositor disclosure

Applicants must satisfy APRA that they have the processes and procedures to enable them to inform prospective depositors in Australia of the requirements of the Banking Act to which they are not subject, in a manner approved by APRA, as per the disclosure requirements pursuant to section 11E of the Banking Act. See section 4.1.1 for further information.

3.7.2 Regulatory reporting

Applicants must satisfy APRA that from the grant of a licence they will be able to submit complete and accurate returns on their Australian business to APRA in the manner APRA prescribes and in accordance with the *Financial Sector (Collection of Data) Act 2001*. Information on APRA's reporting systems is available on the APRA website¹⁴. Applicants will need to register for MyGovID¹⁵ in order to access APRA's reporting systems.

Applicants are expected to be able to demonstrate that they have:

- developed processes and procedures to enable required data to be extracted and reported in line with APRA's reporting timeframes once licensed;
- identified key individuals who will be involved in reporting and who will have direct access to APRA's reporting systems;
- established the relevant authentications so identified individuals can access APRA's reporting systems; and
- conducted appropriate testing to ensure that they can obtain the relevant data at the appropriate time and that staff understand their role in reporting to APRA, and can action this up to the point of needing to submit to APRA.

Access to APRA's reporting system live environment is not granted until after licensing, therefore any testing conducted prior to being granted a licence may involve spreadsheet versions of reports to APRA or, if available, the APRA reporting system test environment.

3.8 Foreign ADI prudential supervision

Foreign ADI applicants must satisfy APRA that they are subject to adequate prudential supervision in their home country. In considering the standard of supervision exercised by the home supervisor, APRA will have regard to the Core Principles of Banking Supervision set out by the BCBS. This includes whether the home supervisor supervises the overseas bank applicant on a consolidated basis in accordance with the principles contained in the Basel

¹⁴ www.apra.gov.au/statistics-and-reporting.

¹⁵ <https://www.mygovid.gov.au/>.

Concordat, and is prepared to co-operate (in terms of the Concordat) with APRA in the supervision of the foreign ADI in Australia.

An overseas bank will need to provide consent from its home country supervisor to establish a bank branch in Australia and agree to co-operate with APRA in the supervision of the branch. Attachment B part 18 provides more information on the attestations required by the overseas bank and its home country supervisor.

Chapter 4 - Foreign ADI Operations

A foreign ADI licence is subject to conditions which restrict the kinds of banking activities that the foreign ADI is permitted to carry on in Australia; consequently, a foreign ADI is not required to meet all of APRA's prudential standards. This chapter provides an outline of restrictions on foreign ADIs and APRA's expectations in relation to their operating model.

4.1 Restrictions on deposit-taking activities

APRA grants authorities to carry on banking business in Australia to overseas banks as foreign ADIs subject to a condition specifically restricting the acceptance of retail deposits by their Australian branches. An overseas bank which is looking to accept retail deposits in Australia must therefore establish an Australian subsidiary which would then apply for a locally-incorporated ADI licence.

APRA imposes a condition on all foreign ADIs licences prohibiting them from accepting initial deposits (and other funds) from individuals and non-corporate institutions of less than \$250,000. They can, however, accept deposits and other funds in any amount from incorporated entities, non-residents and their employees. No other specific restrictions are placed on the sources of funding or on the use of funds by foreign ADIs. They may offer cheque accounts to customers, subject to the above requirements governing the nature and size of deposits they can accept.

APRA applies a principles-based approach to the application of this licence condition. As such, foreign ADIs should note the following:

- APRA's licence conditions apply to the whole of a foreign ADI's activities in Australia, not only the component of its activities that comprises 'banking business' as defined in the Banking Act;
- APRA's intent in including 'other funds' within the prohibition on retail fund-raising is to encompass a broad range of financial instruments, not limited to deposits or similar products. Examples of 'other funds' include securities, bonds, debentures, deferred purchase agreements, derivatives and other structured investments, where they involve the raising of funds;
- in applying the prohibition on retail fund-raising, APRA looks through to the ultimate investor or depositor from which funds are raised. Raising funds through an intermediary (e.g. brokers or fund managers) does not exclude these liabilities from application of the prohibition;
- APRA will view arrangements to circumvent the \$250,000 minimum for deposit accounts, such as lending funds to provide the initial deposit for the account, as a breach of the conditions on the foreign ADI's licence; and
- the prohibition on retail fund-raising is not intended to prohibit foreign ADIs from conducting bona fide lending to retail borrowers; however, such activities must not involve the borrower depositing funds in a manner that would breach the licence conditions.

4.1.1 Disclosure to depositors

Unlike locally incorporated ADIs, foreign ADIs are not required to maintain assets in Australia to cover their deposit liabilities. The deposit liabilities of a foreign ADI are also not covered under the Financial Claims Scheme (FCS). For these reasons, foreign ADIs are required to make mandatory written disclosures, in a manner approved by APRA, to their prospective depositors.

APRA has set out the required manner of disclosure in a class approval titled "[foreign ADI disclosure statements](#)".

4.2 Dual operation of overseas banks

Where an overseas bank simultaneously holds a licence to operate as a foreign ADI and is the parent of a locally-incorporated subsidiary ADI, each operation is required to conduct its business in Australia in a way which recognises, and makes clear to others, its separate legal status and authorisation.

The branch and the subsidiary ADI will need to have:

- separate books of accounts;
- separate statistical (including prudential) reporting to APRA;
- separate internal control systems for monitoring and managing risks (including systems for controlling credit risk, liquidity risk, market risk and operational risk);
- as part of the control systems, separate systems of delegations (although these could comprise the same people in some cases);
- separate individuals responsible for the proper management and prudent operation of the branch and the subsidiary ADI respectively (i.e. the branch senior manager and the subsidiary ADI CEO should not be the same person);
- processes to ensure customers understand which entity they are dealing with and the implications for their interests when staff are undertaking dual roles for both the branch and the subsidiary ADI.

Banking transactions between the branch and the subsidiary ADI must be at arm's length (on commercial terms and conditions). The branch and the subsidiary ADI are permitted to share the same premises. In addition, joint functional support services such as personnel and financial control between the two authorised entities are permitted, as are joint treasury operations. However, requirements relating to outsourcing to a related body must be met.

4.3 Operating model

4.3.1 Booking structures

All banking business conducted in Australia by a branch of a foreign ADI must be locally booked, unless otherwise agreed by APRA. APRA will only permit offshore booking if the proposed business being booked offshore:

- does not have the potential to lessen APRA's ability to provide effective prudential supervision of the foreign ADI;

- is immaterial compared to the total business operations of the foreign ADI's branch in Australia; and
- is not a critical function to the Australian financial services industry.

Where local booking is not practical, the applicant will need to demonstrate to APRA why it considers it is impractical to book certain business locally. APRA will not accept reasons based on cost considerations for this purpose. Applicants will need to provide an explanation to APRA of the projected materiality of the business (to Australia) and where the resources, particularly risk and compliance supporting the business, will be located.

Once a foreign ADI is given permission to book certain business offshore, APRA may in the future require it to book locally if there are any changes to the above points.

Attachment A: Representative office minimum supporting information checklist

Representative office

- | | | |
|------|---|--------------------------|
| 1.1 | Evidence of status as a bank under the laws of home country (i.e. a copy of banking licence or authority) | <input type="checkbox"/> |
| 1.2 | Copy of most recent annual report (including audited accounts) and any subsequent public financial statements (in English) | <input type="checkbox"/> |
| 1.3 | Names of directors and substantial shareholders (direct and indirect) where these are not disclosed in the annual report | <input type="checkbox"/> |
| 1.4 | A brief history of the applicant, including details of main activities | <input type="checkbox"/> |
| 1.5 | A description of the proposed functions of the representative office and an indication of the number of personnel to be assigned to the office | <input type="checkbox"/> |
| 1.6 | The name of the proposed Chief Representative and the address and contact numbers of the proposed office (if not known at the time of the application, to be provided as soon as possible after authority is given by APRA for the representative office to be established) | <input type="checkbox"/> |
| 1.7 | The name and position of the officer in the applicant's Head Office to whom the Chief Representative will report and an outline of how the operations of the representative office are to be monitored to ensure that the conditions attaching to the consent to maintain the office are observed | <input type="checkbox"/> |
| 1.8 | Details of equity interests held by the applicant (or its ultimate parent) in Australian financial enterprises, and an outline of the nature of the business carried on by those enterprises | <input type="checkbox"/> |
| 1.9 | Written confirmation from home country supervisor (where the applicant is part of a group of companies, from the supervisor in the country where the group conducts the bulk of its banking activities) that: <ul style="list-style-type: none"> - it does not object to the application <input type="checkbox"/> - the applicant is of good repute and satisfies all prudential requirements; and <input type="checkbox"/> - the applicant's operations are supervised on a consolidated basis consistent with internationally agreed standards <input type="checkbox"/> | |
| 1.10 | Advice as to whether the applicant has ever had an application to establish a presence in another country rejected or had an approval to conduct a representative office or banking operation in another country suspended or revoked, and the reasons for that action | <input type="checkbox"/> |
| 1.11 | Written confirmation that the overseas bank has registered as a foreign company under the Corporations Act and is not required to obtain an Australian Financial Services Licence under the Corporations Act | <input type="checkbox"/> |
| 1.12 | A written undertaking that the applicant will at all times comply with the conditions relating to the operation of the representative office in Australia | <input type="checkbox"/> |

Attachment B: Foreign ADI minimum supporting information checklist

This checklist sets out the minimum supporting material expected to be submitted by a foreign ADI licence applicant. It is provided as guidance only, APRA may request applicants submit additional information in support of their application. While the information is presented as a set of specific documents, it may suit an applicant for certain information to be presented in a different manner. All of the information is expected to be provided during the licensing process and prior to a foreign ADI licence being granted, however the timing of when an applicant submits the relevant supporting information can vary depending on the applicant's implementation timeline. Applicants should discuss the checklist with APRA during their pre-application meetings to confirm when APRA would expect supporting information to be submitted.

Ownership and group structure

- | | | |
|-----|--|--------------------------|
| 1.1 | Evidence of status as a bank under the laws of home country (i.e. a copy of banking licence or authority) | <input type="checkbox"/> |
| 1.2 | ASIC foreign company registration certificate | <input type="checkbox"/> |
| 1.3 | Copies of constitution or memorandum and articles of association | <input type="checkbox"/> |
| 1.4 | Address of registered office and operational offices | <input type="checkbox"/> |
| 1.5 | Group structure chart including: | |
| | - Full name of entity or individual shareholder (including if an entity, its legal status) | <input type="checkbox"/> |
| | - Country of incorporation (for entities) or origin (for individuals) | <input type="checkbox"/> |
| | - Percentage of shares or voting rights held in applicant and its parent | <input type="checkbox"/> |
| | - Nature of relationship between applicant and persons who may have control or influence over the applicant (e.g. investor/founder etc. and the influence they will have on the applicant) | <input type="checkbox"/> |
| | - Details of any previous bankruptcy and criminal proceedings that the shareholders/associates have been subject to | <input type="checkbox"/> |
| | - Source of shareholder funds and evidence of probity/AML/sanctions checks conducted on the shareholder (NB Credit reports are not a source of probity and should not be provided to APRA) | <input type="checkbox"/> |
| | - Where the applicant is owned by large number of minority shareholders or members, list of the 20 largest shareholders or members | <input type="checkbox"/> |
| | - Where the applicant is a part of a group, all subsidiaries and related companies of the applicant and parent (including dormant) indicating: | <input type="checkbox"/> |
| | i) where subsidiaries/related companies are regulated, the name of the regulator and nature of business regulated; and | |

- ii) where there are interlinkages and outsourcing arrangements between the applicant and subsidiaries/related companies
- 1.6 Latest accounts for any substantial shareholder that is a body corporate, partnership or trust
- 1.7 FSSA application (if applicable)

Business model

- 2.1 Business plan including:
 - Explanation of the applicant's overall strategic goal, why the applicant has been established and has decided to carry on the business for which it is seeking a licence
 - Description of the proposed business, including:
 - i) Geographical scope of operations and future expansion plans
 - ii) Target markets and customer segmentation
 - iii) Clients – including types, sources, client base
 - iv) Products and services including any borrowing, lending or off-balance sheet activities
 - v) Delivery channels – branches, internet, postal, agencies, subsidiaries
 - vi) Pricing
 - vii) Promotion and marketing – initial and future
 - ix) Funding profile and diversification
 - x) Details of any planned trading book activity
 - xi) Any plans to establish (or maintain) a locally incorporated subsidiary ADI in Australia and the strategy under which these entities would operate, including details of any proposals to transfer assets or to share support services
 - xiii) Plans to transfer business from any subsidiaries and associates in Australia into the proposed branch
 - xiv) An estimate of total staff envisaged and the proposed organisational structure
 - xv) The proposed date for commencement of operations
 - High level summary of financial resources including details of the source of funds that will be injected into the applicant to support its proposed activities
- 2.2 5 year financial projections including:
 - Detailed balance sheet, cash flow and earnings (including assumptions)
 - Key financial and prudential ratios – branch (e.g. liquidity ratios, etc.)
 - Key financial and prudential ratios – parent (e.g. capital ratios, liquidity ratios, leverage ratio etc.)

- Detailed explanation of the initial and long-term viability of the business model
 - Stress scenarios to show what will be the effect of key assumptions underpinning the business model and its viability not turning out as planned (up-side and down-side scenario)
- 2.3 Annual statutory accounts for the applicant and relevant related firms i.e. holding/parent company (if applicable)
- 2.4 Implementation plan focusing on how the applicant will move business into the branch
- 2.5 Organisational chart for the Australian branch
- 2.6 Brief history the applicant and an outline of its global operations

Governance, culture, remuneration and accountability

- 3.1 Branch committee structure including names of members
- 3.2 Remuneration policy
- 3.3 Management structure and reporting lines chart
- 3.4 Conflicts of interest management policy
- 3.5 Overview of the intended structure, resources, responsibilities and reporting lines for:
- Liquidity and treasury
 - Risk and Compliance
 - Internal Audit
- 3.6 Banking Executive Accountability Regime (BEAR) statements
- 3.7 BEAR Accountability Map
- 3.8 Self-assessment against APRA Prudential Standard CPS 510 Governance
- 3.9 Self-assessment against APRA Prudential Standard CPS 511 Remuneration

Fit and proper and responsible persons

- 4.1 Fit and proper policy
- 4.2 For each individual who will hold a responsible person position:
- Position title
 - Full name
 - Date of birth (for ID purposes only)
 - Role description and main responsibilities
 - Copy of the assessment completed under fit and proper including competency and capability in relation to the position held
 - Evidence of probity/AML/Sanctions (NB Credit reports are not a source of probity and should not be provided to APRA)

4.3 Self-assessment against APRA Prudential Standard CPS 520 Fit and Proper

Risk management

5.1 Risk appetite statement

5.2 Risk management strategy

5.3 Code of conduct

5.4 Whistle-blower policy

5.5 List of policies and procedures supporting the management of material risks throughout the Australian branch the applicant has in place, and can be ready to provide on request

5.6 Overview of the management information system in place for measuring, assessing and reporting on all material risks across the Australian branch

5.7 List of reports proposed to be provided to the SOOA

5.8 Details of review process to ensure that the risk management framework is effective

5.9 An outline of the reporting lines proposed from the branch to the Head and/regional office

5.10 Consequence management policy

5.11 Self-assessment against APRA Prudential Standard CPS 220 Risk Management

Credit risk

6.1 Credit risk management policies and procedures addressing:

- Monitoring of credit quality

- Identification and appropriate measurement of impaired facilities

- Estimation of inherent credit risk in its business

- Recognition of collateral

- Write-down or write-off of uncollectible facilities

- Validation of credit assessment and provisioning and reserve process

- Adequacy of provisions and reserves covering existing and estimated future credit losses and the timely establishment of such provisions and reserves

- Production of data and other information required for adequately assessing the credit risk exposure of impairment, accounting for asset impairment and reporting to APRA

- Delegations for approval of credit facilities

6.2 Lending policy, including:

- Underwriting standards

- Risk tolerances and limits

6.3 Large exposures and risk concentrations policy

6.4 Self-assessment against APRA Prudential Standard APS 220 Credit Quality

Market and investment risk

- 7.1 Market risk management policy including
- Asset and liability management
 - Interest rate risk in the banking book management
 - Investment strategy/management
- 7.2 Traded market risk policy (if applicable)
- 7.3 Trading book policy statement (if applicable)

Operational risk

- 8.1 Operational risk management framework
- 8.2 Training and competence regime
- 8.3 Product governance policy
- 8.4 Fraud management policy
- 8.5 Incident management policy

Service provider management

- 9.1 Outsourcing policy
- 9.2 List of principal service providers for the branch, and services provided by each, whether external or intra-group, identifying any link to the applicant, and including supplier location, rationale for the outsourcing, and supplier due diligence and selection process
- 9.3 Details of oversight responsibilities and arrangements, systems and controls for each service provider material to the branch's management and operations
- 9.4 Self-assessment against APRA Prudential Standard CPS 231 Outsourcing

Business continuity

- 10.1 Business continuity management policy
- 10.2 Business impact analysis
- 10.3 Recovery objectives and strategies
- 10.4 Business continuity plan
- 10.5 Business continuity plan review and testing program
- 10.7 Pandemic plan
- 10.8 Self-assessment against APRA Prudential Standard CPS 232 Business Continuity Management

Compliance risk

- | | | |
|------|---|--------------------------|
| 11.1 | Compliance framework (can be amalgamated in operational risk management framework) | <input type="checkbox"/> |
| 11.2 | Confirmation that there is a SOOA approved AML/CTF program and that the applicant has/will register with AUSTRAC as a designated service provider (APRA does not require a copy of the program) | <input type="checkbox"/> |
| 11.3 | Confirmation that there is a SOOA approved privacy policy (APRA does not require a copy of the policy) | <input type="checkbox"/> |

IT risk including information security

- | | | |
|------|---|--|
| 12.1 | IT strategy | <input type="checkbox"/> |
| 12.2 | IT organisation chart including roles and responsibilities (branch and head office/group level) | <input type="checkbox"/> |
| 12.3 | Overview systems diagram, showing main applications | <input type="checkbox"/> |
| 12.4 | Overview of network diagram | <input type="checkbox"/> |
| 12.5 | Overview description of Branch IT, including <ul style="list-style-type: none">- Principal applications, where located, how supported and by whom- Principal data centres and other IT staff locations, and what each is used for- Details of oversight responsibilities and arrangements, systems and controls for each outsourced function material to the Branch's management and operations- Resilience, business continuity and disaster recovery arrangements including key controls to recover information assets in response to a range of scenarios | <input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/> |
| 12.6 | Latest penetration test results identifying scope and results of the penetration test(s), including actions taken to eliminate shortcomings and planned frequency | <input type="checkbox"/> |
| 12.7 | Self-assessment against APRA Prudential Standard CPS 234 Information Security | <input type="checkbox"/> |

Audit

- | | | |
|------|--|--------------------------|
| 13.1 | Internal audit scope and plan (minimum 12 months post licensing) | <input type="checkbox"/> |
| 13.2 | Appointed auditor terms of engagement and, if applicable, other instructions or correspondence, including management letters | <input type="checkbox"/> |
| 13.3 | Appointed auditor independence declaration | <input type="checkbox"/> |
| 13.4 | Fit and proper assessment of appointed auditor | <input type="checkbox"/> |

Capital

- | | | |
|------|--|--------------------------|
| 14.1 | Evidence the applicant meets comparable capital adequacy standards, consistent in all substantial respects with the Basel III capital framework, as required by their home country supervisors | <input type="checkbox"/> |
| 14.2 | Details on how the applicant will ensure sufficient assets will remain in Australia to meet the branch's Australian liabilities | <input type="checkbox"/> |

Liquidity risk

- | | | |
|------|---|--------------------------|
| 15.1 | Liquidity risk tolerance statement | <input type="checkbox"/> |
| 15.2 | Liquidity management strategy and policy including: | |
| | - Composition and maturity of assets and liabilities | <input type="checkbox"/> |
| | - Diversity and stability of funding sources | <input type="checkbox"/> |
| | - Approach to managing liquidity in different currencies, across borders and across business lines and legal entities | <input type="checkbox"/> |
| | - Approach to intraday liquidity management | <input type="checkbox"/> |
| 15.3 | Operating standards for identifying, measuring and controlling liquidity risk in accordance with liquidity risk tolerance | <input type="checkbox"/> |
| 15.4 | Funding strategy | <input type="checkbox"/> |
| 15.5 | Contingency funding plan | <input type="checkbox"/> |
| 15.6 | Local operational capacity assessment | <input type="checkbox"/> |
| 15.7 | Self-assessment against APRA Prudential Standard APS 210 Liquidity | <input type="checkbox"/> |
| 15.8 | Self-assessment against APRA Prudential Standard APS 120 Securitisation (if applicable) | <input type="checkbox"/> |

Contingency plan

- | | | |
|------|--|--------------------------|
| 16.1 | Overview of how the applicant will respond to a financial stress that threatens the viability of its Australian operations | <input type="checkbox"/> |
|------|--|--------------------------|

Disclosure and reporting

- | | | |
|------|--|--------------------------|
| 17.1 | Confirmation of ability to complete required regulatory returns | <input type="checkbox"/> |
| 17.2 | An acknowledgement by the applicant that the proposed branch will comply with the disclosure requirements pursuant to section 11E of the Banking Act | <input type="checkbox"/> |

Foreign ADI prudential supervision

- | | | |
|------|--|--------------------------|
| 18.1 | An outline of the supervisory arrangements to which the applicant is subject to in its home country | <input type="checkbox"/> |
| 18.2 | A statement from the applicant's home supervisor: | |
| | - consenting to the application to establish a branch in Australia; | |
| | - confirming that the applicant is of good financial standing, the applicant's current capital ratios and that there are no supervisory concerns regarding the applicant's financial resilience; | |
| | - confirming there are no material supervisory concerns with regards to the applicant's governance, risk management and operational resilience; | <input type="checkbox"/> |
| | - confirming that the applicant is supervised on a consolidated basis in accordance with the principles contained in the Basel Concordat; and | |
| | - agreeing to co-operate in the supervision of the proposed branch, in terms of the Basel Concordat | |
| 18.3 | An undertaking by the applicant to co-operate in the supervision of the proposed branch, including the provision of information required by APRA to supervise the proposed branch | <input type="checkbox"/> |

- 18.4 An undertaking by the applicant to keep APRA informed of any significant developments adversely affecting its financial soundness and/or reputation globally, and to provide promptly to APRA copies of its published financial accounts and any significant media releases (with translations where appropriate)
- 18.5 An undertaking by the applicant to keep APRA apprised of developments in its (existing or future) subsidiaries in Australia
- 18.6 A written undertaking by the applicant that the proposed branch will:
- adhere to APRA's prudential requirements at all times;
 - consult APRA and be guided by it on prudential matters, including in respect of new business initiatives; and
 - provide APRA with any information which it may require for the prudential supervision of the branch
- 18.7 An acknowledgement by the applicant that APRA may discuss the conduct of the branch with its head office and its home supervisor(s)

Attachment C: Self-assessment example

Prudential Standard CPS 220 Risk Management – *Risk Appetite*

Poor self-assessment

Requirement	Assessment
27. An APRA-regulated institution must maintain an appropriate, clear and concise risk appetite statement for the institution that addresses the institution's material risks. The board is responsible for setting the risk appetite of the institution and must approve the institution's risk appetite statement.	Met
28. The risk appetite statement must, at a minimum, convey:	
(a) the degree of risk that the institution is prepared to accept in pursuit of its strategic objectives and business plan, giving consideration to the interests of depositors and/or policyholders (risk appetite);	Included
(b) for each material risk, the maximum level of risk that the institution is willing to operate within, expressed as a risk limit and based on its risk appetite, risk profile and capital strength (risk tolerance);	Included
(c) the process for ensuring that risk tolerances are set at an appropriate level, based on an estimate of the impact in the event that a risk tolerance is breached, and the likelihood that each material risk is realised;	Included
(d) the process for monitoring compliance with each risk tolerance and for taking appropriate action in the event that it is breached; and	Included
(e) the timing and process for review of the risk appetite and risk tolerances.	Included

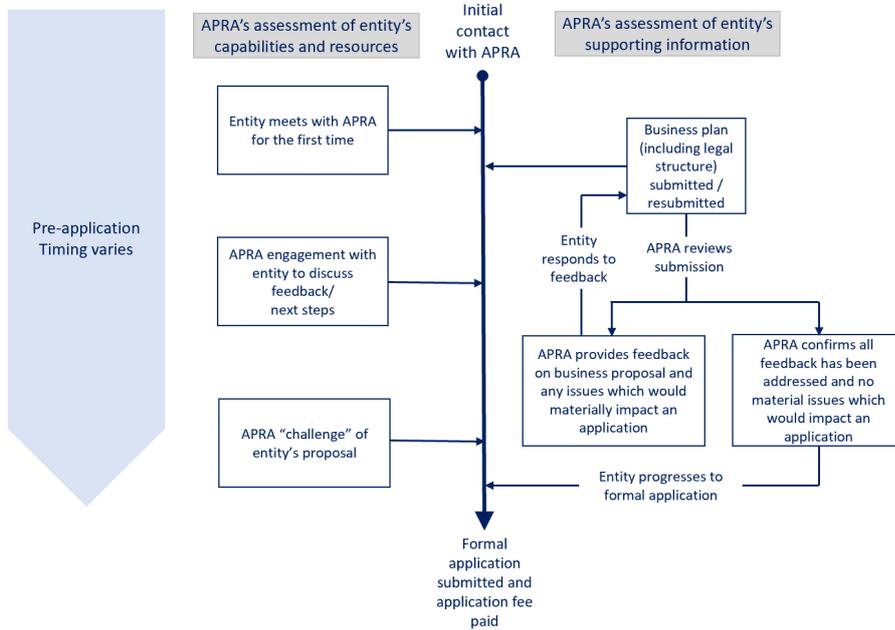
Better practice self-assessment

Requirement	Assessment
27. An APRA-regulated institution must maintain an appropriate, clear and concise risk appetite statement for the institution that addresses the institution's material risks. The board is responsible for setting the risk appetite of the institution and must approve the institution's risk appetite statement.	Board approved risk appetite statement (RAS) on 30 July 2021.
28. The risk appetite statement must, at a minimum, convey:	
(a) the degree of risk that the institution is prepared to accept in pursuit of its strategic objectives and business plan, giving consideration to the interests of depositors and/or policyholders (risk appetite);	Risk tolerances are detailed in section 3 of the RAS and include both qualitative statements and metrics.

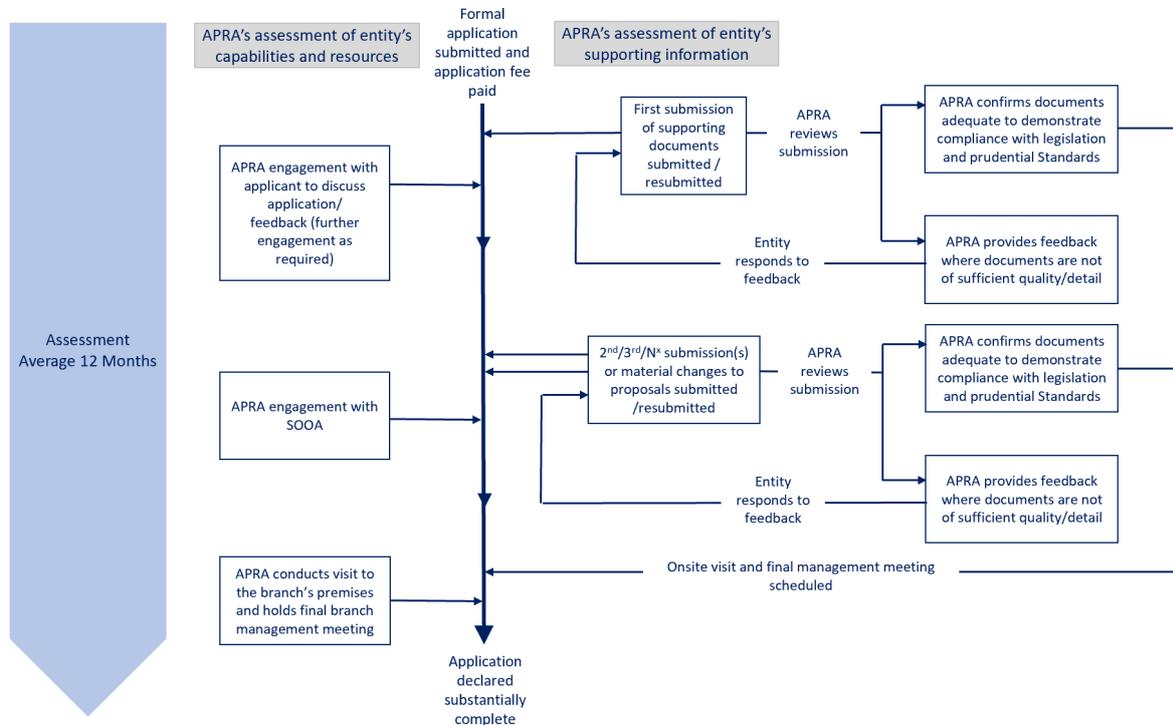
Requirement	Assessment
(b) for each material risk, the maximum level of risk that the institution is willing to operate within, expressed as a risk limit and based on its risk appetite, risk profile and capital strength (risk tolerance);	A red, amber, green risk limit framework for the material risks is included in section 4 of the RAS.
(c) the process for ensuring that risk tolerances are set at an appropriate level, based on an estimate of the impact in the event that a risk tolerance is breached, and the likelihood that each material risk is realised;	A risk impact/likelihood matrix is included in section 3 of the RAS.
(d) the process for monitoring compliance with each risk tolerance and for taking appropriate action in the event that it is breached; and	Monitoring of risks, reporting and escalation is covered in section 5 of the RAS. Breaches and actions to resolve are recorded in the risk management system.
(e) the timing and process for review of the risk appetite and risk tolerances.	The risk appetite shall be reviewed annually or where there is a material change to the business plan, process for the review is detailed in section 2 of the RAS.

Attachment D: The licensing process

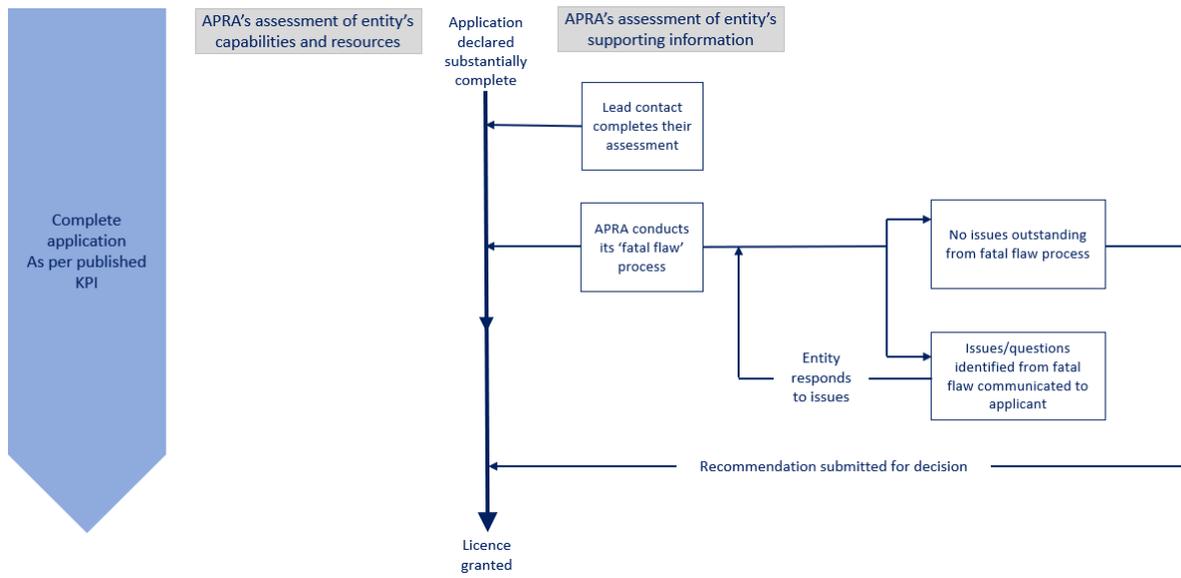
Pre-application



Assessment



Complete application





 **APRA**