

EXPLANATORY STATEMENT – REVOCATION AND DETERMINATION OF CCP STANDARDS 7.3, 7.9, 13.1, 13.2 and 13.3

Background

The Reserve Bank of Australia (Reserve Bank) has the power under subsection 827D(8) of the *Corporations Act 2001* (the Act) to revoke financial stability standards (FSSs) that apply to clearing and settlement (CS) facility licensees, and the power under subsection 827D(1) of the Act to determine FSSs for the purpose of ensuring that licensed CS facilities conduct their affairs in a way that causes or promotes overall stability in the Australian financial system.

In accordance with these powers, at its February 2013 meeting, the Reserve Bank's Payments System Board approved:

1. the revocation of Standards 7.3, 7.9, 13.1, 13.2 and 13.3 (the Existing Sub-Standards) of the *Financial Stability Standards for Central Counterparties* determined on 10 December 2012 (CCP Standards), with effect from 20 February 2013 (the Revocation); and
2. the determination of FSSs identical in content to the Existing Sub-Standards (New Sub-Standards) in accordance with paragraph 827D(5)(a)(ii) of the Act, to come into effect on 31 March 2014 (the Determination).

Purpose and Operation

The Existing Sub-Standards are currently due to come into force on 29 March 2013. Upon the application of the existing CS facility licensees that operate a central counterparty, the Reserve Bank has agreed to grant transitional relief in respect of the Existing Sub-Standards such that the date they come into effect is deferred until 31 March 2014. The Reserve Bank has decided to grant this relief on the basis that compliance with the Existing Sub-Standards necessitates significant, industry-wide change, as well as there being external dependencies to achieving compliance as specified below.

The purpose of the Revocation and Determination is to implement the Reserve Bank's decision to grant transitional relief in respect of the Existing Sub-Standards. The Revocation and Determination are necessary due to the operation of subsection 827D(5) of the Act which governs when a FSS comes into force.

The combined effect of the Revocation and Determination is to delay the date on which the Existing Sub-Standards come into effect by approximately 12 months to 31 March 2014. The Revocation and Determination do not have the effect of changing the substantive obligations of CS facility licensees under the CCP Standards.

Consultation

Under section 827D of the Act, the Reserve Bank must consult with the Australian Securities and Investment Commission (ASIC) prior to revoking a FSS, and prior to determining or varying a FSS, must consult with ASIC and any CS facility licensees that will be required to comply with the FSS.

In December 2012, the Reserve Bank determined the CCP Standards. That determination was made after extensive consultation with ASIC, existing CS facility licensees and also with potential CS facility licence applicants and other stakeholders. In recognition that compliance with the CCP Standards may necessitate significant, industry-wide change as well as external dependencies to achieving compliance, the Reserve Bank invited applications for transitional relief from existing CS facility licensees.

The Reserve Bank received an application for transitional relief in respect of the Existing Sub-Standards from ASX Limited on behalf of two of the CS facility licensees within the ASX Group (the ASX CCP Licensees), each of which operates a central counterparty.

The Reserve Bank considered that ASX Limited's requests for relief were reasonable, given that they were limited to the implementation of sub-standards in which there are significant dependencies on participant views and responses and, in the case of account portability, legislative change. ASX's requests for relief were also accompanied by an explanation of plans to achieve full compliance by 31 March 2014. The ASX CCP Licensees are currently the only CS facility licensees that are required to comply with the CCP Standards (including the New Sub-Standards).

During the process of assessing and reviewing ASX Limited's application for transitional relief, the Reserve Bank informed ASIC of the key issues raised and the developments in decision-making. The Reserve Bank also sought ASIC's views on granting the ASX CCP Licensees transitional relief. ASIC concurred with the Reserve Bank's decision to grant transitional relief.

Documents

- ASX Limited's application for transitional relief and the Reserve Bank's response are available on the Reserve Bank's website at <http://www.rba.gov.au/payments-system/clearing-settlement/applications/index.html>
- RBA Media Release: New Financial Stability Standards, 5 December 2012, is available on the Reserve Bank's website at <http://www.rba.gov.au/media-releases/2012/mr-12-37.html> and the Regulation Impact Statement detailing the consultation process for determining new FSSs, together with attachments setting out the new FSSs and associated guidance, is available on the Reserve Bank's website at <http://www.rba.gov.au/payments-system/clearing-settlement/standards/201212-new-fss-ris/index.html>
- Gazettal notice, available on the Reserve Bank's website at <http://www.rba.gov.au/payments-system/clearing-settlement/pdf/gazettal-notice-transitional-relief-22022013.pdf>