



# Banking (prudential standard) determination No. 3 of 2014

## Prudential Standard APS 001 Definitions

### *Banking Act 1959*

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I, Wayne Byres, delegate of APRA:

- (a) under subsection 11AF(3) of the Banking Act 1959 (the Act) REVOKE Banking (prudential standard) determination No.2 of 2012 including *Prudential Standard APS 001 Definitions* made under that Determination; and
- (b) under subsection 11AF(1) of the Act DETERMINE *Prudential Standard APS 001 Definitions* in the form set out in the attached Schedule, which applies to all ADIs and authorised NOHCs.

This instrument takes effect on 1 January 2015.

Dated: 3 December 2014

[Signed]

Wayne Byres  
Chair

### **Interpretation**

In this instrument:

**ADI** has the meaning given in section 5 of the Act.

**APRA** means the Australian Prudential Regulation Authority.

**authorised NOHC** has the meaning given in section 5 of the Act.

## **Schedule**

*Prudential Standard APS 001 Definitions* comprises the 9 pages commencing on the following page.



# **Prudential Standard APS 001**

## **Definitions**

### **Objective and key requirements of this Prudential Standard**

This Prudential Standard defines key terms referred to in other Prudential Standards applicable to authorised deposit-taking institutions (ADIs) and authorised non-operating holding companies (authorised NOHCs). All Prudential Standards applicable to ADIs and authorised NOHCs must be read in conjunction with this Prudential Standard.

## Authority

1. This Prudential Standard is made under section 11AF of the *Banking Act 1959* (the Act).

## Application

2. This Prudential Standard takes effect from 1 January 2015.
3. Unless the contrary intention appears, definitions in this Prudential Standard apply to all prudential standards made under section 11AF of the Act (collectively, **ADI Prudential Standards**).

## Key terms

4. Key terms referred to in the ADI Prudential Standards are defined as follows:

**AASB** refers to the Australian Accounting Standards Board.

**Account-holder** has the meaning in section 5 of the Act.

**Additional Tier 1 Capital** is as defined in *Prudential Standard APS 111 Capital Adequacy: Measurement of Capital* (APS 111).

**ADI** refers to an authorised deposit-taking institution, meaning a body corporate authorised under section 9 of the Act, to carry on banking business in Australia (e.g. a bank, building society or credit union).

**AIFRS** refers to the Australian equivalents of International Financial Reporting Standards.

**AIRB** refers to an advanced internal-ratings based approach to credit risk, as defined in *Prudential Standard APS 113 Capital Adequacy: Internal Ratings-based Approach to Credit Risk* (APS 113).

**AMA** refers to an advanced approach used to measure an ADI's regulatory capital for operational risk that has been approved by APRA in accordance with *Prudential Standard APS 115 Capital Adequacy: Advanced Measurement Approaches to Operational Risk* (APS 115).

**API** refers to the Australian Property Institute.

**Appointed auditor** means an auditor appointed for the purposes of *Prudential Standard APS 310 Audit and Related Matters* (APS 310).

**AUASB** refers to the Auditing and Assurance Standards Board.

**Australian Accounting Standards** is a reference to the Australian Accounting Standards issued by the AASB as may be amended from time to time.

**Australian Auditing and Assurance Standards** is a reference to the Australian Auditing and Assurance Standards issued by the AUASB as may be amended from time to time.

**Australian-owned ADI** refers to an ADI that is not a foreign-owned ADI.

**Authorised NOHC** has the same meaning as in the Act.

**Banking Act** refers to the *Banking Act 1959*.

**BCM** refers to Business Continuity Management.

**BCP** refers to Business Continuity Plan.

**BIA** refers to Business Impact Analysis.

**Board** refers to the Board of directors of an institution.

**Business day** has the same meaning as in the Act.

**CBD** refers to Central Business District.

**CCR** refers to Counterparty Credit Risk.

**CEO** refers to the Chief Executive Officer of an institution.

**Cheques Act** refers to the *Cheques Act 1966*.

**Common Equity Tier 1 Capital** is as defined in APS 111.

**Conglomerate group** is as defined in Attachment A.

**Corporate finance activities** includes underwriting and any holdings of equity or debt arising from underwriting, arranging, facilitation, and management activities such as those associated with securitisation, mergers and acquisitions or privatisations and syndication activities that are undertaken, predominantly, with the intention of earning a fee. Corporate finance activities also includes longer term positions in equities that are held for strategic reasons and holdings in equity instruments, or in instruments that exhibit characteristics that are more like equity than debt, that arise as a consequence of loan restructurings.

**Corporations Act** refers to the *Corporations Act 2001*.

**Credit rating grades** means grades of credit ratings to which **ECAI** ratings are mapped, and that correspond to relevant asset risk weights.

**Ensure** when used in relation to a responsibility of the Board, means to take all reasonable steps and make all reasonable enquiries as are appropriate for a board so that the board can determine, to the best of its knowledge, that the stated matter has been properly addressed.

**Extended Licensed Entity (ELE)** is comprised of an ADI and each subsidiary of an ADI as specified in any approval granted by APRA in accordance with

*Prudential Standard APS 222 Associations with Related Entities (APS 222).*

**External Credit Assessment Institution (ECAI)** means an entity that assigns credit ratings designed to measure the creditworthiness of a counterparty or certain types of debt obligations of a counterparty.

**Financial institution** includes any institution engaged substantively in one or more of the following activities – banking; leasing; issuing credit cards; portfolio management (including asset management and funds management); management of securitisation schemes; equity and/or debt securities, futures and commodity trading and broking; custodial and safekeeping services; insurance (both general and life) and similar activities that are ancillary to the conduct of these activities. A financial institution includes any authorised NOHC or overseas equivalent.

**FIRB** refers to Foundation IRB, as defined in APS 113.

**Fit and proper assessment** means an assessment of a person's fitness and propriety in accordance with *Prudential Standard CPS 520 Fit and Proper* (CPS 520).

**Fit and proper policy** means a written policy relating to the fitness and propriety of an ADI's responsible persons that meets the requirements of CPS 520.

**Foreign ADI** has the meaning in section 5 of the Act.

**Foreign-owned ADI** means an ADI in relation to which an approval has been given, under section 14 of the *Financial Sector (Shareholdings) Act 1998*, for a bank that is not locally incorporated to hold a stake of more than 15 per cent in the ADI.

**FSCODA** refers to the *Financial Sector (Collection of Data) Act 2001*.

**General market risk** means the risk of loss owing to changes in the general level of market prices or interest rates. It arises from positions in interest rate, equities, foreign exchange and commodities.

**Gross income** means total operating income from continuing operations.

**Group** refers to a corporate group that comprises more than one company that are related bodies corporate within the meaning of section 50 of the Corporations Act.

**Internal Capital Adequacy Assessment Process (ICAAP)** is as defined in *Prudential Standard APS 110 Capital Adequacy* (APS 110).

**Internal ratings-based (IRB) approach to credit risk** refers to the approach to credit risk, as defined in APS 113.

**IRB approval** refers to the written approval from APRA for an ADI to adopt the IRB approach.

**IRRBB** means interest rate risk in the banking book: the risk of loss in earnings or in the economic value on banking book items as a consequence of movements in interest rates.

**Level 1** means either the ADI itself or the ELE.

**Level 2** means either:

- (a) if the ADI is not a subsidiary of an authorised NOHC and the ADI has subsidiaries in addition to those included in its ELE, the consolidation of the ADI and all its subsidiary entities other than **non-consolidated subsidiaries**; or
- (b) if the ADI is a subsidiary of an authorised NOHC, the consolidation of the immediate parent NOHC of the ADI and all the immediate parent NOHC's subsidiary entities (including any ADIs and their subsidiary entities) other than non-consolidated subsidiaries;

unless APRA otherwise determines, in writing, a different Level 2 composition for a group of companies of which the ADI is a member.

**Level 3** means the conglomerate group at the widest level.

**Limited assurance** is defined in accordance with the Framework for Assurance Engagements issued by the AUASB.

**Listed** refers to an institution admitted to, and not removed from, a stock exchange.

**LMI** refers to lenders mortgage insurer or lenders mortgage insurance.

**Locally-incorporated ADI** refers to an ADI that is incorporated in Australia or in a State or Territory of Australia, by or under Commonwealth, State or Territory legislation.

**Mark-to-model** refers to any valuation that has to be benchmarked, extrapolated or otherwise calculated from a market input.

**Material currency** means a currency for which the total book value of an ADI's banking book items in that currency is more than five per cent of the total book value of all banking book items. In determining whether a currency is material, the effect of currency hedges that reduce foreign currency exposure may be taken into account, provided those hedges are effective.

**Model approval** refers to the written approval from APRA to an ADI to adopt an internal model approach to a particular risk.

**Net credit balance** has the meaning in section 5 of the Act.

**Netting** refers to the process under a netting agreement of combining all relevant outstanding transactions between two counterparties and reducing them to a single net sum for a party to either pay or receive.

**Non-consolidated subsidiaries** is as defined in Attachment B.

**Non-Operating Holding Company (NOHC)** has the meaning in section 5 of the Act.

**Normal settlement period** means a contractual settlement period that is equal to or less than the market standard for the instrument underlying the transaction and, in any case, less than five business days.

**OECD** refers to the Organisation for Economic Co-operation and Development.

**Offshoring** means the outsourcing by an ADI of a material business activity associated with its Australian business to a service provider (including a related body corporate) where the outsourced activity is to be conducted outside Australia.

**Operational risk** means the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. This definition includes legal risk<sup>1</sup> but excludes strategic and reputational risks.

**Ordinary shares** for Regulatory Capital purposes must meet the criteria in Attachment B to APS 111.

**Prudential Capital Requirement (PCR)** means the minimum amount of Regulatory Capital that an ADI or NOHC must hold, as defined in APS 110.

**PPF provider or purchased payment facility provider** refers to an ADI with authority to provide purchased payment facilities.

**Privacy Act** refers to the *Privacy Act 1988*.

**Prudential disclosures** means the minimum requirements relating to the disclosure by an ADI of information about its capital adequacy under *Prudential Standard APS 330 Capital Adequacy: Public Disclosure of Prudential Information*.

**Prudential requirements** includes requirements imposed by the Act, prudential standards made under the Act, reporting standards made under FSCODA, conditions on the ADI's authorisation and any other requirements imposed by APRA in writing.

**Reasonable assurance** is defined in accordance with the *Framework for Assurance Engagements* issued by the AUASB.

**Regulatory Capital** is as defined in APS 111.

**Related body corporate, or related company**, has the meaning in section 50 of the Corporations Act.

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<sup>1</sup> Legal risk includes, but is not limited to, exposure to fines, penalties or punitive damages resulting from supervisory actions as well as ordinary damages in civil litigation, related legal costs and private settlements.



**Relevant group of bodies corporate** has the meaning in section 5 of the Act.

**RBA** refers to the Reserve Bank of Australia.

**Risk management declaration** is as defined in *Prudential Standard CPS 220 Risk Management* (CPS 220).

**Risk management framework** is as defined in CPS 220.

**Risk management strategy** is as defined in CPS 220.

**SCCI** or **specialist credit card institution** refers to an ADI that engages in credit card issuing and/or credit card acquiring within the meaning of Regulation 2(2) of the *Banking Regulations 1966* and does not carry on any other form of banking business.

**Securitisation** is a structure where the cash flow from a pool is used to service obligations to at least two different tranches or classes of creditors (typically holders of debt securities), with each class or tranche reflecting a different degree of credit risk (i.e. one class of creditors is entitled to receive payments from the pool before another class of creditors).

**Senior manager** has the meaning in section 5 of the Act.

**Senior officer outside Australia** is the senior nominated officer of a foreign ADI (whether a director or senior executive) outside Australia with delegated authority from the Board to be responsible for overseeing the Australian branch operation.

**SMEs** refers to small and medium-sized enterprises.

**Standardised Approach to credit risk** refers to the approach to credit risk outlined in *Prudential Standard APS 112 Capital Adequacy: Standardised Approach to Credit Risk* (APS 112).

**Subsidiary** has the meaning in the Corporations Act.

**Tier 1 Capital** is as defined in APS 111.

**Tier 2 Capital** is as defined in APS 111.

**Third party** means an entity that is not the ADI or a related body corporate of the ADI.

**Total Capital** is as defined in APS 111.

## Attachment A

### Conglomerate group

1. A conglomerate group is a group of companies that are related to each other within the meaning of section 50 of the *Corporations Act 2001* where the group includes one or more ADIs that have been incorporated within Australia.
2. Subject to paragraph 3 of this Attachment, unless determined in writing by APRA, a conglomerate group must be headed by an ADI or an authorised NOHC and may include non-financial (commercial) as well as financial entities (regulated and unregulated). A reference to a regulated entity in a conglomerate group refers to any entity directly regulated by APRA or by an equivalent banking or insurance prudential regulator overseas.
3. A foreign-owned locally incorporated ADI and its subsidiaries will constitute a conglomerate group for the purposes of this Prudential Standard. However, where a foreign-owned ADI has a locally incorporated NOHC parent, the conglomerate group will comprise the locally incorporated NOHC (even if it is not an authorised NOHC) and all its subsidiaries. The ADI's foreign parent(s), the foreign parent's overseas-based subsidiaries and their directly owned non-ADI entities operating in Australia will not form part of the conglomerate group. APRA, however, expects the foreign parent to be subject to regulatory oversight broadly consistent with that applied by APRA and, if requested by APRA, to provide APRA with information concerning activities of its subsidiaries outside the Australian conglomerate group.

## Attachment B

### Non-consolidated subsidiaries

1. For the purposes of determining an ADI's capital adequacy at Level 2, all banking and other financial activities (subject to paragraph 2 of this Attachment), both regulated and unregulated, conducted within the banking group must be consolidated.
2. Consolidation at Level 2 must cover the global operations of an ADI and its subsidiary entities, as well as any other controlled banking entities, securities entities and other financial entities, except for entities involved in the following business activities:
  - (a) insurance (including friendly societies and health funds);
  - (b) acting as manager, responsible entity, approved trustee, trustee or similar role in relation to funds management;
  - (c) non-financial (commercial) operations; and
  - (d) securitisation special purpose vehicles to which assets have been transferred in accordance with the requirements of *Prudential Standard APS 120 Securitisation*.