



RESERVE BANK OF AUSTRALIA

Corporations Act 2001

Notice of Variation of Financial Stability Standard

The Reserve Bank of Australia ('Reserve Bank'), under section 827D(6) of the *Corporations Act 2001*, hereby varies the *Financial Stability Standard for Central Counterparties*. The effect of this variation is to exempt an overseas central counterparty from assessment against the Standard, provided that it is subject to sufficiently equivalent regulation overseas and able to provide documentary evidence from the regulator that it meets the requirements of that regime. This regime will ensure the robustness of central counterparties providing services to Australian markets, while placing appropriate reliance on overseas regulators so as to avoid unnecessary duplication of regulation. Such reliance is explicitly contemplated in the *Corporations Act*, with Section 823CA stating that 'the Reserve Bank may take account of any information and reports that it thinks appropriate, including information and reports from an overseas regulatory authority'.

The Standard, as varied, is designed to ensure that clearing and settlement (CS) facility licensees conduct their affairs in a way that promotes the overall stability of the Australian financial system.

THE STANDARD – FSS 2009.1

A CS facility licensee must conduct its affairs in a prudent manner, in accordance with the standards of a reasonable facility in contributing to the overall stability of the Australian financial system, to the extent that it is reasonably practicable to do so. This Standard applies to all CS facility licensees that operate a central counterparty with the exception of those CS facility licensees granted a licence under Section 824B(2) of the *Corporations Act 2001*. This exception applies only for such time as the Reserve Bank receives annual documentary evidence from the licensee's overseas regulator that the licensee has complied in all material respects with the requirements of the overseas regulator related to matters affecting stability. Such evidence must be provided in a form and at a time agreed with the Reserve Bank.

How a licensee meets the Standard

The Standard is supplemented by guidance as to how a CS facility licensee meets the Standard. That guidance is varied as follows:

The Standard does not apply to CS facility licensees granted a licence under Section 824B(2). This exception applies only for such time as the Reserve Bank receives annual documentary evidence from the licensee's overseas regulator that the licensee has complied in all material respects with the requirements of the overseas regulator related to matters affecting stability. The required form of such documentary evidence will be discussed with the licensee and its overseas regulator, but it is expected that it would include the following: details of any assessments carried out over the preceding period relevant to the licensee's compliance with the requirements of the overseas regulator; and details of any specific areas of investigation by the regulator.

Such documentary evidence must be received prior to the commencement of operations under the licence and on an annual schedule thereafter.

The Reserve Bank will also, from time to time, seek additional information directly from the licensee regarding its activities and risk management processes. Furthermore, notwithstanding that an overseas regime may be sufficiently equivalent to that in Australia, there may be some differences in the detailed application of principles or standards. The Reserve Bank will, in such cases, seek sufficient information to carry out a direct assessment of the CS facility licensee in respect of specific aspects of its operations. Subject to the outcome of such an assessment, the Reserve Bank may recommend that additional risk-mitigating actions be taken by the licensee.

At a minimum the Reserve Bank would expect to receive the following information on a regular basis:

- *details of any material changes in the licensee's activities, processes, or people:* The licensee is expected to provide activity reports and information on material changes in the conduct of its business – including changes to products, people and operational processes. The Reserve Bank expects to be informed in advance where material changes in these areas might be relevant to an assessment of systemic risk. Audited annual accounts, quarterly management accounts and data detailing stress-test outcomes relative to the facility's risk resources would also be expected; and
- *additional information to allow assessment of specific aspects of the licensee's operations:* The form and scope of the information necessary to carry out such an assessment will differ according to the coverage of the overseas regime. The Reserve Bank's expectations in this regard will be discussed periodically with the licensee.

In some cases it may be appropriate to establish a formal framework for cooperative oversight alongside the overseas regulator. Under such circumstances, the required level and frequency of information flow from both the regulator and the facility might be greater.

The varied Financial Stability Standard applies to CS facility licensees from 24 February 2009.

Signed



GR Stevens
Governor
Reserve Bank of Australia

Date 23 February 2009.