



Australian Prudential Regulation Authority Instrument fixing charges No. 4 of 2018

Charges to be paid by representative offices of foreign banks in Australia.

Australian Prudential Regulation Authority Act 1998

I, Stephen Matthews, a delegate of APRA

- (i) under paragraph 51(1)(a)(b) of the *Australian Prudential Regulation Authority Act 1998* (the Act) and subsection 33(3) of the *Acts Interpretation Act 1901* REVOKE *Instrument Fixing Charges No. 2 of 2013* made on 8 March 2013; and
- (ii) under paragraph 51(1)(a)(b) of the Act, FIX the charges specified in the attached Schedule.

This Instrument commences on the date of registration on the Federal Register of Legislative Instruments under the *Legislation Act 2003*.

Dated: 7 June 2018

[Signed]

Stephen Matthews
Executive General Manager (Corporate Services)

Interpretation this Instrument

In this Instrument

APRA means the Australian Prudential Regulation Authority.

foreign bank means a foreign authorised deposit-taking institution (ADI) as defined in Subsection 5(1) of the *Banking Act 1959*. Section 67 of the *Banking Act* refers to foreign banks as overseas banks.

Schedule of charges

Application or service for which the charge is imposed	Amount of charge (GST exempt)	Person required to pay the fee	When the charge is to be paid
Application for APRA's consent, under paragraph 67(1)(c) of the <i>Banking Act 1959</i> , to establish or maintain an office in Australia of a foreign bank.	\$10,000	The foreign bank.	On lodgement of the application.
<p>Annual monitoring by APRA of:</p> <ul style="list-style-type: none"> (a) the operations and maintenance of the foreign bank's representative office in Australia; and (b) the foreign bank's compliance with the conditions imposed on the consent pursuant to subsection 67(2) of the <i>Banking Act</i>. 	<p>\$3,000 per financial year per foreign bank (regardless of the number of offices in Australia).</p> <p>The charge for a financial year shall be pro-rated where the foreign bank does not have an office in Australia at the beginning of the financial year but establishes such an office part way through the financial year, so that the foreign bank is only liable to pay a proportion of the charge corresponding to the proportion of the financial year which follows the establishment of a representative office in Australia of the foreign bank.</p> <p>However, the charge for a financial year shall <i>not</i> be pro-rated where the foreign bank ceases to have any representative offices in Australia before the end of the financial year.</p>	The foreign bank.	<p>Twenty-eight days after receipt of APRA's invoice for the charge.</p> <p>APRA may invoice the charge:</p> <ul style="list-style-type: none"> (a) if the foreign bank does not have an office in Australia at the beginning of the financial year – when the foreign bank establishes an office in Australia during the financial year; (b) in every other case – at the beginning of the financial year.

In relation to the Schedule of charges above:

- (a) Each of the charges is GST exempt (see *Note 1* below);
- (b) Subject to paragraph (c) below, APRA may waive or refund, in whole or in part, any application charge set out in the Schedule of charges if APRA is satisfied that special circumstances apply which would make it unjust or oppressive to impose a part of the charge, or the full amount of the charge. An example of a case where a waiver or refund may be justified is where an applicant applies for the wrong kind of authorisation by mistake, and withdraws the application before APRA has done any substantial amount of work considering the application;
- (c) No refund or waiver will be made if the application is unsuccessful or if APRA, in the course of processing the application, informs the applicant that the application will be unsuccessful (see *Note 2* below) or if the application is withdrawn or not proceeded with by the applicant;
- (d) The charges specified in column 2 may be waived by APRA where the foreign bank is a central bank; and
- (e) An applicant seeking a refund or waiver of an application fee must apply in writing to APRA setting out details of the special circumstances that apply.

Note 1: As per Division 81 of *A New Tax System (Goods and Services Tax) Act 1999*.

Note 2: For the avoidance of doubt, it should be noted that the charge is payable in respect of every new application, even one that is made after the refusal or withdrawal of an earlier application for which the applicant also paid a fee.