



Guidelines

Guidelines on authorisation of providers of purchased payment facilities

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Overview

1. These guidelines are for prospective applicants seeking an authority to carry on banking business under the *Banking Act 1959* (the Banking Act) as a provider of a purchased payment facility (PPF provider).
2. A PPF provider includes either:
 - (a) a person providing a purchased payment facility (PPF) that has been determined to be banking business under Regulation 3 of the *Banking Regulations 1966* (Regulation 3); or
 - (b) a holder of stored value (HSV) as defined by the *Payment Systems (Regulation) Act 1998* that makes payments (as mentioned in paragraph 9(1)(c) of that Act) in relation to a PPF that has been determined to be banking business under Regulation 3.
3. PPF providers form a special class of authorised deposit-taking institution (ADI) that are authorised to undertake a limited range of banking activities.
4. Authorisation as a PPF provider is likely to be subject to a number of conditions imposed under paragraph 9(4)(a) of the Banking Act. The types of conditions that could be imposed are outlined in paragraphs 15 to 20 of these guidelines.
5. Other ADIs authorised to carry on general banking business who also carry on banking business as defined by Regulation 3 are deemed to be already authorised to conduct this banking business. That is, they will **not** be required to obtain any further authorisation under these guidelines or meet any additional prudential requirements applying to PPF providers.
6. As ADIs, PPF providers are subject to the requirements of the Banking Act and any other Acts applicable to ADIs such as the *Financial Sector (Shareholdings) Act 1998* (the FSSA) and the *Financial Sector (Transfers of Business) Act 1999*. Although PPF providers are not exempt from the *Financial Sector (Collection of Data) Act 2001* (FSCOD Act), APRA may issue a full or partial exemption to a PPF provider from the requirements in the FSCOD Act. Under subparagraph 16(1)(a) of the FSCOD Act, APRA may exempt a PPF provider from the requirement to comply with all the requirements contained in any one or more applicable reporting standards. Under subparagraph 16(1)(b) of the FSCOD Act, APRA may exempt a PPF provider from the requirement to comply with a specific requirement contained in an applicable reporting standard or applicable reporting standards. Regulations and prudential standards applicable to ADIs also apply to PPF providers to the same extent, unless APRA has otherwise exempted PPF providers from their operation (Note: see *Prudential Standard APS 610 Prudential Requirements for Providers of Purchased Payment Facilities (APS 610)* for a list of those ADI prudential standards that do not apply to PPF providers).
7. Section 7 of the Banking Act stipulates that only bodies corporate can be authorised as ADIs in Australia. Prospective PPF provider applicants may refer to the Australian Securities & Investments Commission (ASIC) web site (www.asic.gov.au) for information with regard to the requirements and procedures for registration of a body corporate in Australia.
8. PPF provider applicants should also refer to the ASIC web site regarding licensing, conduct and disclosure requirements that apply to financial products under the *Corporations Act 2001*. Non-cash payment facilities, including PPFs, may fall within the definition of a financial product under the *Corporations Act 2001*.

9. A body corporate seeking to become a PPF provider in Australia will need to apply in writing to APRA, in accordance with s. 9 of the Banking Act.
10. APRA may refuse an application for authority to become a PPF provider in Australia where an applicant is a subsidiary of a locally incorporated non-operating holding company (NOHC) that does not hold a NOHC authority under the Banking Act. Where relevant, an applicant will need to submit to APRA a written application by its NOHC for a NOHC authority under s. 11AA of the Banking Act concurrently with its application for authority to provide PPFs.

Authorisation of PPF providers

11. The objective of authorising PPF providers is to allow for the prudential supervision of PPF liabilities (that is, stored value).
12. To this end, the authorisation criteria applying to PPF providers, as well as specific prudential requirements determined under the Banking Act (see APS 610), will depend on whether the PPF provider has stored value at risk.
13. PPF provider applicants should refer to APS 610 to determine whether they hold stored value at risk.

Conditions on authorisation for all PPF providers

14. While APRA will examine each application on its merits, a PPF provider applicant would ordinarily expect the following conditions (paragraphs 15 through to 20) to be imposed on its authorisation. (Note: The rationale for these conditions is that PPF providers are exempted under APS 610 from the operation of a number of prudential standards that apply to other ADIs. Without imposing a conditional authority, APRA would be obliged to apply the current ADI framework in its entirety in order to maintain an even regulatory playing field between PPF providers and other ADIs).

Restricted authorisation

15. It is a condition of authorisation that a PPF provider only conducts banking business as specified in Regulation 3. This condition restricts PPF providers from accepting deposits for the purpose of making advances of money (other than where incidental credit balances resulting from the provision of PPFs result in liabilities, i.e. stored value, that are subject to APRA requirements on investment and liquidity).

Disclosure when using restricted words and expressions

16. It is a condition of authorisation that a PPF provider must not represent that it is authorised to carry on the general business of taking deposits. This condition requires a PPF provider who holds out to a member of the public that it is an 'ADI' or 'authorised deposit-taking institution' or in possession of a banking authority, to qualify that with a clear statement that it is only authorised to provide PPFs and is not authorised to carry on the general business of taking deposits.

Segregate PPF business

17. It is a condition of authorisation that the business activities of PPF providers are restricted to PPF business operations and closely related services. The purpose of this condition is to ensure the PPF provider exists as a stand-alone entity and avoids possible contagion effects impacting upon PPF liabilities. Closely related activities would include support services such as the issuance and administration of PPFs, although these would vary with the nature of the PPF.

Locally incorporated

18. Current restrictions placed upon ADI branches effectively require foreign entities wishing to undertake retail business to establish a subsidiary. These restrictions confine the deposit-taking activities of 'foreign ADIs' to the wholesale market. They are not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than A\$250,000. Given the small amount of value typically held by customers in PPFs, such a restriction would effectively rule out offering such facilities through a branch structure.
19. APRA would therefore ordinarily impose as a condition of authorisation that PPF providers be incorporated in Australia. This condition means branches of foreign entities would not be permitted to seek authorisation under the Banking Act as a PPF provider.

Reporting requirements

20. In addition to reporting requirements under the FSCOD Act which a PPF provider may be subject to, it is a condition of authorisation that a PPF provider must provide to APRA financial data on a periodic basis as specified in its ADI authority (specific reporting requirements may vary from PPF provider to PPF provider).

Authorisation criteria for all PPF providers

21. The authorisation criteria set out below are applicable to all PPF provider applicants regardless of whether or not they have stored value at risk. These criteria represent the minimum requirements that a PPF provider applicant will ordinarily need to meet for authorisation under the Banking Act and should not be taken as an exhaustive list. Depending on the circumstances, APRA may refuse an application on other prudential grounds not covered in these guidelines.

22. APRA will only authorise suitable applicants with the capacity and commitment to provide PPFs with integrity, prudence and competence on a continuing basis.
23. APRA expects all PPF provider applicants to be able to comply with all prudential requirements contained in those ADI prudential standards that apply to PPF providers from the commencement of their PPF operations. Prospective PPF provider applicants should familiarise themselves with these prudential standards which are available on the APRA web site (www.apra.gov.au). (Note: APS 610 lists those ADI prudential standards which do not apply to PPF providers).
24. It should be noted that higher prudential requirements may be set on a case-by-case basis, e.g. for newly authorised PPF providers in their formative years.

Use of restricted words and expressions

25. An authority to act as a PPF provider does not entitle the PPF provider to call itself a 'bank'. Applicants should note s.66 of the Banking Act which restricts the use of certain words or expressions, without explicit APRA consent (refer to *Guidelines on Implementation of s. 66 – Banking Act*, available on the APRA web site www.apra.gov.au).
26. A PPF provider authorised by APRA is entitled to use or assume the restricted expressions (determined by APRA under s. 66(5) of the Banking Act), including the expressions 'purchased payment facility provider' and 'PPF provider'.

Ownership

27. Ownership in PPF providers is governed by the FSSA. The FSSA limits shareholdings of an individual shareholder or a group of associated shareholders in a PPF provider, whether held directly or through another entity or entities, to 15 per cent of the PPF provider's voting shares. The Treasurer, or in some cases APRA under delegated authority from the Treasurer, may approve a higher shareholding limit for specific institutions on national interest grounds.

28. PPF provider applicants wishing to obtain an approval for a higher shareholding limit under the FSSA must submit with their application an explanation and supporting evidence of how this would serve the public interest.
29. All substantial shareholders of a PPF provider applicant are required to demonstrate to APRA that they are well-established and financially sound entities of standing and substance. In the case of a wholly owned PPF provider, the substantial shareholders of the parent company must also satisfy APRA of their financial soundness and substance. APRA requires all substantial shareholders of a PPF provider to be able to demonstrate that their involvement in the PPF provider will be a long-term commitment and that they will be able to contribute additional capital, if required.
30. PPF provider applicants that are subsidiaries of a parent company must demonstrate that arrangements for reporting to parent companies are adequate.
31. In assessing whether the policies and procedures proposed for managing and controlling risk are adequate and appropriate for the applicant's operations, APRA will take account of the nature and scale of the operations, the volume of transactions undertaken and the proposed organisational structure as set out in the business plan.

Information and accounting systems

32. PPF provider applicants must satisfy APRA that their proposed (or existing) information and accounting systems are adequate for maintaining up-to-date records of all transactions and commitments undertaken by the PPF provider, so as to keep management accurately informed of the PPF provider's condition and the risks to which it is exposed. APRA requires an ADI authorised to conduct general banking business to be able to continuously monitor these risks (including liabilities), but recognises that not all PPF providers will be able to meet this test. APRA will assess this on a case-by-case basis. Applicants are required to demonstrate to APRA that the proposed systems will be capable of producing all required statutory and prudential information in an accurate and timely manner from the commencement of their PPF operations.
33. In assessing the overall adequacy of the proposed information and accounting systems, APRA will have regard to the integrity and security of the systems, including associated backup facilities and disaster recovery arrangements. Any proposed (or existing) outsourcing of data processing (and any other back office) functions must satisfy APRA's outsourcing requirements (refer to *Prudential Standard APS 231 Outsourcing* and *Prudential Standard APS 232 Business Continuity Management*).

Corporate governance and fitness and propriety

30. All PPF provider applicants should be aware of APRA's requirements regarding corporate governance and the fitness and propriety of the board of directors and senior management.
31. These requirements are contained in *Prudential Standard APS 510 Governance* and *Prudential Standard APS 520 Fit and Proper*. They are available on the APRA web site www.apra.gov.au

Risk management and internal control systems

32. PPF provider applicants must satisfy APRA that their proposed (or existing) risk management and internal control systems are adequate and appropriate for monitoring and limiting risk exposures arising from their PPF business from the commencement of their operations. This includes, in particular, the maintenance of adequate and appropriate policies and procedures for monitoring and managing operational risk such as fraud, security threats or systems failure (also refer to APS 610, *Prudential Standard APS 231 Outsourcing* and *Prudential Standard APS 232 Business Continuity Management*).

37. APRA may require a PPF provider to develop a risk mitigation strategy for any identified exchange rate risks and/or hold additional start-up capital.

External and internal audit arrangements

38. PPF provider applicants must demonstrate to APRA that arrangements have been established with external auditors in accordance with the requirements set out in *Prudential Standard APS 310 Audit and Related Matters*. This includes, in particular, arrangements for an external auditor to report annually to APRA on:
- the PPF provider's observance of APRA's prudential standards and requirements;
 - the PPF provider's compliance with statutory banking requirements and the conditions on the PPF provider authority (including restrictions on deposit-taking activities);
 - the reliability of information supplied to APRA for prudential supervision purposes; and
 - any other matters agreed between the PPF provider, its external auditor and APRA under the tripartite arrangements.
39. PPF provider applicants are also required to satisfy APRA that the proposed (or existing) internal audit arrangements (including establishment and composition of an audit committee) are in accordance with the requirements set out in *Prudential Standard APS 310 Audit and Related Matters*.

Additional minimum start-up capital criterion for PPF providers with stored value at risk

40. For PPF providers who hold stored value at risk, APRA will impose an additional authorisation criterion of minimum start-up capital. The amount of capital required for an authority to provide PPFs with stored value at risk will be assessed by APRA on a case-by case basis. The adequacy of start-up capital for each PPF provider applicant will be based on the nature and scale of the operations as proposed in the business plan.
41. Examples of Tier 1 capital include paid-up ordinary shares, general reserves, and retained earnings. PPF provider applicants should refer to *Prudential Standard APS 111 Capital Adequacy: Measurement of Capital* for the criteria instruments must meet to be classified as Tier 1 capital.
42. Newly established PPF providers who hold stored value at risk may also be subject to a higher minimum capital requirement in their formative years, depending on the risk profile of the proposed operations.
43. PPF providers who hold stored value at risk will also be subject to on-going capital requirements which are contained in APS 610. Applicants must satisfy APRA that they are able to comply with these capital requirements on an on-going basis from the commencement of their PPF operations. (Note: PPF providers with stored value at risk are also subject to additional, liquidity, asset and operational risk requirements as outlined in APS 610).

Information required to be submitted on application

44. A list of information and supporting documents required to be submitted by a PPF provider applicant seeking to obtain an authority to carry on the banking business of providing PPFs in Australia is set out in Attachment A.

45. APRA may seek such additional information from an applicant as is necessary to assess the application.

Application procedures

Preliminary consultation

46. Prospective PPF provider applicants are encouraged to contact APRA at an early stage to discuss their plans prior to submitting a formal application. This assists APRA in identifying any matters which might adversely impact on the proposal and to advise on the format and content required of an application.

Submission of application

47. Two copies of the final application, including all the required information and supporting documents set out in the Attachment (as appropriate) should be submitted to APRA. Electronic submissions are preferred.

Processing and notification

48. The time required to process an application will depend on the particular circumstances of each application, including the completeness of information and documents submitted to APRA by the applicant.
49. An authority may be granted to take effect on delivery or from some nominated date.

Attachment A – Supporting information required for an application to establish a PPF provider

Ownership, board and management

- (a) Name of the proposed PPF provider.
- (b) A brief history of the applicant and an outline of the existing operations of any related entities in Australia.
- (c) Proposed initial capital (authorised, paid-up, classes of shares, etc).
- (d) Names of substantial shareholders (direct and ultimate) and their respective shareholdings.
- (e) An undertaking by substantial shareholders to provide additional capital, if required, and that their investment in the PPF provider represents a long-term commitment.
- (f) Board structure, including names of directors, their principal business associations and curriculum vitae.
- (g) An outline of the proposed organisational framework, with names of senior management, their responsibilities and curriculum vitae.

Three-year business plan

The business plan submitted should incorporate the goals or milestones of the first three years of operations of the PPF provider. The plan should include:

Structure of business

- (a) an outline of the current and proposed activities and the scale of operations;
- (b) details of proposed borrowing to be undertaken;
- (c) the location of head office and operation centres;
- (d) intended means of channel of distributing the PPF;
- (e) a description of operations and technology;
- (f) an estimate of total staff complement envisaged;
- (g) descriptions of any marketing or similar alliances with third parties; and
- (h) the proposed date for commencement of operations.

Financial data

- (a) the most recent audited financial statements;
- (b) the size and composition of stored value, if any;
- (c) projections (including sensitivity analysis covering expected, up-side and down-side scenarios) of the following:
 - (i) detailed balance sheet, cashflow and earnings (including assumptions used);
 - (ii) key financial and prudential ratios if relevant (e.g. capital ratios and composition of the liquidity ratio) for the proposed PPF provider; and
 - (iii) key financial and prudential ratios for the proposed PPF provider and its subsidiaries (if any) on a consolidated basis.

Systems and controls

- (a) Details of the risk management systems and procedures to be used to control and monitor risks in relation to the operations of the PPF provider (and its subsidiaries, if any), including:
 - (i) credit policy on loans to shareholders, directors and associated interests;
 - (ii) investment and liquidity management policy;
 - (iii) limits and/or monitoring of stored value held on behalf of individuals;
 - (iv) policy on dealings with related entities; and
 - (v) policies and procedures for control of operational risk (e.g. systems failure and fraud monitoring).
- (b) Description of information and accounting systems (including a list of internal reports generated for risk management purposes).
- (c) Description of information security policies, procedures and systems controls.
- (d) Evidence that, from the commencement of operations, information and other systems will be capable of producing all required statutory and prudential returns in an accurate and timely manner.

- (e) Description of any existing or proposed material outsourcing arrangements.
- (f) Description of business continuity (including disaster recovery and system reliability) arrangements.
- (g) Description of the audit program covering internal controls and systems.

Subsidiaries

- (a) Details of existing or proposed subsidiaries and associates, the nature and scale of their business, and their proposed business relationship with the proposed PPF provider.

Other

- (a) Certificate of incorporation of the corporate vehicle to hold the PPF provider authority (refer to s. 10 of the Banking Act).
- (b) Certified copies of Memorandum and Articles of Association (refer to s. 10 of the Banking Act).
- (c) External auditor's certificates verifying, where applicable, the level of capital.

Additional information requirements for wholly owned PPF provider applicants

- (a) The parent company (intermediate and ultimate) of a PPF provider applicant should provide:
 - (i) a brief history and an outline of its operations, substantial shareholders (direct and ultimate) and directors (including principal business associations);
 - (ii) balance sheet, profit and loss and off-balance sheet data for the last three years (plus any available current year's data);
 - (iii) an outline of the proposed reporting arrangements from the subsidiary PPF provider to the parent company;
 - (iv) an undertaking to co-operate in the supervision of the proposed subsidiary PPF provider, including the provision of information required by APRA to supervise the proposed subsidiary PPF provider;

- (v) an undertaking to keep APRA informed of any significant developments adversely affecting its financial soundness and/or reputation, and to provide promptly to APRA copies of its published financial accounts and any significant media releases (with translations where appropriate); and
- (vi) if the parent company is a financial institution, an outline of the supervisory arrangements to which it is subject in its home country.

- (b) PPF provider applicants who are recognised as entities similar to PPF providers by any foreign jurisdiction, and are subject to prudential supervision in that jurisdiction, should outline the nature and requirements of this supervisory framework, and provide APRA with a statement from their home supervisor confirming that:
 - (i) it has the supervisor's consent to establish a PPF provider subsidiary in Australia; and
 - (ii) it is willing to co-operate in the supervision of the proposed subsidiary.

Prudential supervision by APRA

- (a) The applicant must provide a written undertaking to:
 - (i) adhere to APRA's prudential requirements at all times;
 - (ii) consult APRA and be guided by it on prudential matters and in respect of new business initiatives; and
 - (iii) provide APRA with any information which it may require for the prudential supervision of the proposed PPF provider (and its subsidiaries, if any).
- (b) An acknowledgement by the applicant that APRA may discuss the applicant's conduct and status with its parent and, where applicable, its parent's supervisor(s).
- (c) Evidence that arrangements have been established for the prospective PPF provider's external auditors to report to APRA.



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