

GUIDANCE NOTE ON THE WAIVER OF THE ELIGIBILITY CERTIFICATE FEE FOR STATUTORY TRUST ACCOUNTS

Summary

The Government has agreed to waive the Eligibility Certificate Fee in respect of various accounts.

Background

A number of professions are required to maintain trust accounts with approved authorised deposit-taking institutions (ADIs) by various laws of the Commonwealth, or a State or Territory. This involves an account-holder operating an account containing money held on trust by the account-holder for a beneficiary. Examples include solicitors holding funds on trust for clients and real estate agents holding deposits on trust during real property transactions. Many of the balances on these accounts exceed the \$1 million threshold and so require the payment of a fee to access the Guarantee Scheme for Large Deposits and Wholesale Funding ('Guarantee Scheme') in respect of the amount over the \$1 million threshold.

In several cases, legislation provides that no interest is payable to the holder of the account or the ultimate beneficiary. This means that it is not possible to implement the fee for the Guarantee Scheme by reducing the interest payable on these accounts. The interest is often required to be paid into a special statutory fund, for use for a public purpose such as a fidelity fund.

The Government considered various options in determining where the burden of the fee should fall. The Government also considered the potential for abuse of any waiver or unintended consequences.

The Government decided that the approach which best combined fairness to account-holders and beneficiaries with maintaining the integrity of the Guarantee Scheme would be to allow a targeted exemption from payment of the Guarantee Scheme fee.

The Fee Waiver

Under clause 6.1.4 of the Scheme Rules, the Commonwealth of Australia may, at its discretion, waive the payment of an Eligibility Certificate Fee by an Eligible Institution in various respects.

The Commonwealth of Australia has exercised this discretion and, with effect from 1 April 2009, will waive the Eligibility Certificate Fee in respect of:

- deposit accounts which are required by a law of the Commonwealth, a State or a Territory to be established and maintained by a party (the account-holder) for the purpose of holding monies on trust for another party or parties; where
- interest or equivalent payments are required by law to be paid into a special fund administered by a government instrumentality or agent to be used for a public purpose, rather than being payable to the account-holder or the beneficiary or beneficiaries of the trust (or related parties).

('statutory trust accounts')

Examples of these accounts are set out in the accompanying *List of Example Accounts*.

The waiver will apply automatically to eligible accounts after the steps outlined below are taken. There will be no need for depositors to opt-in to take advantage of the new arrangements.

The waiver will not be retrospective.

Administrative Arrangements

ADIs must provide the Scheme Administrator with the types of deposit accounts for which the fee waiver will apply.

If an ADI has already applied for and been granted an Eligibility Certificate which covers the relevant deposit accounts, the ADI must inform the Scheme Administrator by letter which deposit products, amongst the list of products on its Eligibility Certificate, include accounts for which the fee is to be waived. The letter should be signed by the ADI's Treasurer or Chief Financial Officer (or equivalent senior officer).

If an ADI's Eligibility Certificate does not include the relevant account types, the ADI must apply for an Eligibility Certificate in the usual way in order for the accounts to be covered by the Guarantee Scheme. The application must list the account products and detail the accounts for which the fee is to be waived.

The fee waiver will only apply to existing guaranteed deposit accounts when the list of accounts has been provided to the Scheme Administrator. It will not apply to accounts that are currently not guaranteed until the ADI submits an application for an Eligibility Certificate and the Scheme Administrator grants a Certificate.

As a result of the waiver, there will be a small change to the reporting documentation, so that guaranteed liabilities for which the waiver applies are identified separately. An example of the new fee reporting form for deposits is attached.

Letters listing deposit products eligible for a fee waiver can be submitted by email to: administrator@guaranteescheme.gov.au and the original sent by post to:

The Scheme Administrator
Australian Government Guarantee Scheme for
Large Deposits and Wholesale Funding
C/- The Secretary
Reserve Bank of Australia
GPO Box 5367
SYDNEY NSW 2001

General enquiries can be directed to the Scheme Administrator on 1800 013 806.

GUARANTEED LARGE DEPOSITS - FEE REPORTING FORM

Please use this form to notify the Scheme Administrator of deposits covered under the Australian Government Guarantee Scheme and fees payable.
 Please provide this information in both excel format and a signed copy in PDF format.
 This information is to be sent to administrator@guaranteescheme.gov.au within 7 business days of the end of the month.

Amounts reported and fees need to be calculated in accordance with Schedule 5 of the Scheme Rules.

Queries relating to the completion of this form can be directed to the Scheme Administrator on 1800 013 806.

Reporting Eligible ADI	<input style="width: 95%;" type="text" value=" <Name>"/>	Date	<input style="width: 95%;" type="text" value=" <date>"/>
Legal Entity	<input style="width: 95%;" type="text" value=" <Name>"/>	For the month of	<input style="width: 95%;" type="text" value=" <month>"/>
ADI credit rating	Moody's <input style="width: 50px;" type="text" value=" <Rating>"/>	Standard&Poor's	<input style="width: 50px;" type="text" value=" <Rating>"/>
		Fitch	<input style="width: 50px;" type="text" value=" <Rating>"/>
Fee Rate	<input style="width: 95%;" type="text" value=" <Fee Rate>"/>		

For Eligible Foreign ADIs only Confirmation that the requirements of section B.12 of Schedule 2 have been met Yes

Currency of issue	Average daily value (in AUD millions)	Fee (in AUD millions)
AUD	<input style="width: 95%;" type="text" value=" <amount>"/>	
USD	<input style="width: 95%;" type="text" value=" <amount>"/>	
EUR	<input style="width: 95%;" type="text" value=" <amount>"/>	
JPY	<input style="width: 95%;" type="text" value=" <amount>"/>	
GBP	<input style="width: 95%;" type="text" value=" <amount>"/>	
NZD	<input style="width: 95%;" type="text" value=" <amount>"/>	
HKD	<input style="width: 95%;" type="text" value=" <amount>"/>	
Other	<input style="width: 95%;" type="text" value=" <amount>"/>	
Total guaranteed deposits	0	
Amount on which fees are waived	<input style="width: 95%;" type="text" value=" <amount>"/>	
Total on which fee is payable	0	<input style="width: 95%;" type="text" value=" <amount>"/>

Signature _____
 (Signature of eligible signatory as outlined in Schedule 5 of the Scheme Rules)