



## RESERVE BANK INFORMATION & TRANSFER SYSTEM

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### Signing Instructions for RITS Membership Legal Documents

RITS Members and applicants for RITS Membership must execute the following documents:

1. RITS Membership Agreement, substantially in the form of Annexure E of the [RITS Regulations](#) together with any attachments detailing additional conditions of membership; and
2. New Member – [List of RITS Authorised Signatories form](#) (or for institutions which are RITS Members solely for the purpose of being eligible counterparties of the Reserve Bank in its domestic market operations, the [List of RITS Authorised Signatories \(OMO\) form](#)).

The required documents (and any other documents incidental to ongoing RITS Membership) are referred to in these instructions as the '**RITS Documents**'.

In addition, RITS Members and applicants must supply the supporting documentation applicable to their entity type, as detailed in the sections below. The supporting documentation need only be included once if the same signing method is used for each RITS Document.

All RITS Documents must be signed in the applicable manner outlined below by applicants for RITS Membership. *Please initial each page of each copy of the Agreement.* Alternative signing methods may be agreed with the Reserve Bank from time to time. This should be discussed with Business Policy & Services, Payments Settlements Department.

If a legal opinion is required as part of the supporting documentation, the legal opinion must:

- (a) be addressed to the Reserve Bank of Australia at 65 Martin Place, Sydney, NSW, 2000;
- (b) confirm that the issuer of the legal opinion has reviewed the RITS Documents and the RITS Regulations;
- (c) list the documents which the issuer of the legal opinion has reviewed for the purpose of preparing and issuing its opinion;
- (d) clearly state all qualifications or assumptions affecting the legal opinion—these must be reasonable and should demonstrate that the issuer of the legal opinion has carefully considered the legal issues relevant to the opinion;
- (e) to the extent the legal opinion contains any assumptions, contain a statement to the effect that the individuals responsible for the preparation of the legal opinion are not actually aware that any of the assumptions are incorrect;
- (f) be for the benefit of the Reserve Bank and entitle the Reserve Bank to rely on the contents of the legal opinion; and
- (g) entitle the Reserve Bank to disclose the contents of the legal opinion (on a non-reliance basis):
  - (1) as required by law or regulation;
  - (2) to the Reserve Bank's external legal advisors;
  - (3) to any person who in the ordinary course has access to the Reserve Bank's papers and records on the basis that the person makes no further disclosure; or
  - (4) as required in connection with any actual or contemplated legal proceedings relating to the RITS Documents or the legal opinion.

## **1. COMPANIES INCORPORATED IN AUSTRALIA** (excludes foreign companies registered in Australia)

### **(A) Section 127 of the Corporations Act**

By two directors or one director and one secretary in accordance with section 127 of the *Corporations Act 2001 (Cth)*.

### **(B) Power of Attorney**

Under Power of Attorney. In this case, the attorney(s) should state that no advice of revocation of the Power of Attorney under which the document is being signed has been received.

### **Supporting documentation requirement**

The original Power of Attorney or a copy certified by a director, secretary, notary public or solicitor should be enclosed. The Power of Attorney must be executed as a deed in accordance with section 127 of the *Corporations Act 2001 (Cth)* or, if it was executed under an equivalent provision in earlier corporations legislation or under other legislation under which the applicant/Member was formed, as a deed in accordance with the relevant legislation. Note that the Power of Attorney must authorise the execution of the required RITS Documents or the execution of a class or category of documents which clearly includes the required RITS Documents. If the Power of Attorney appoints as attorneys persons holding particular positions or offices, evidence that the signatory/ies hold the relevant position or office should also be supplied.

The Reserve Bank may require a legal opinion which confirms due execution of the Power of Attorney and/or the RITS Documents, and/or that the RITS Documents are valid, binding and enforceable against the applicant/Member and/or such other matters as specified by the Reserve Bank. The legal opinion must be in form and substance acceptable to the Reserve Bank, and from a firm of solicitors who are independent of the applicant/Member and who are acceptable to the Reserve Bank. The Reserve Bank will advise the applicant/Member whether a legal opinion is required once it has reviewed the executed RITS Documents. Any such legal opinion will be at the expense of the applicant/Member and must opine on the laws of New South Wales and, if other than New South Wales, the state or territory in which the applicant/ Member is registered (the '**Relevant Jurisdiction(s)**'). The legal opinion may (without limitation) be required to include statements to the effect that:

- (i) The applicant/Member is incorporated as a company and validly exists under the laws in force in Australia and is capable of suing and being sued.
- (ii) The applicant/Member has the capacity and power to execute the RITS Documents and to exercise its rights and perform its obligations under the RITS Documents.
- (iii) The applicant/Member has taken all necessary corporate and other action on its part to authorise the execution and delivery of the RITS Documents by the applicant/Member and the exercise of its rights and the performance of its obligations under RITS Documents.
- (iv) The execution and delivery of the RITS Documents by the applicant/Member and the exercise of its rights and the performance of its obligations under the RITS Documents are not prohibited by any law in force in the Relevant Jurisdictions applicable to the applicant/Member or by its constitution.
- (v) There are no governmental or regulatory consents, approvals, authorisations or orders required under the laws of the Relevant Jurisdictions in connection with the entry into the RITS Documents by the applicant/Member or the performance by the applicant/Member of its obligations under the RITS Documents; or any such consents, approvals, authorisations or orders required have been obtained.

- (vi) The RITS Documents have been duly executed and delivered by the applicant/Member and constitute valid, legally binding and enforceable obligations of the applicant/Member.
- (vii) It is not necessary under the laws of the Relevant Jurisdictions to provide a copy of any RITS Document to a court or governmental agency in order to ensure the legality, validity, enforceability or admissibility in evidence of the RITS Document.
- (viii) The applicant/Member does not enjoy any immunity from suit in the Relevant Jurisdictions nor are its assets exempt from execution.

## **2. OTHER AUSTRALIAN ENTITIES SUCH AS STATUTORY BODIES (excludes foreign companies registered in Australia)**

### **Power of Attorney**

Under Power of Attorney. The attorney(s) should state that no advice of revocation of the Power of Attorney under which the document is being signed has been received.

### **Supporting documentation requirement**

The original Power of Attorney or a copy certified by an officer of the applicant/Member, a notary public or a solicitor should be enclosed.

The Power of Attorney must be executed as a deed under the seal of the applicant/Member or in such other way that it has been validly executed by the applicant/Member and takes effect as a deed. Note that the Power of Attorney must authorise the execution of the required RITS Documents, or the execution of a class or category of documents which clearly includes the required RITS Documents. If the Power of Attorney appoints as attorneys persons holding particular positions or offices, evidence that the signatory/ies to the RITS Documents hold the relevant position or office should also be supplied.

The Reserve Bank may require a legal opinion which confirms due execution of the Power of Attorney and/or the RITS Documents, and/or that the RITS Documents are valid, binding and enforceable against the applicant/Member and/or such other matters as specified by the Reserve Bank. The legal opinion must be in form and substance acceptable to the Reserve Bank, and from a firm of solicitors who are independent of the applicant/Member and who are acceptable to the Reserve Bank. The Reserve Bank will advise the applicant/Member whether a legal opinion is required once it has reviewed the executed RITS Documents. Any such legal opinion will be at the expense of the applicant/Member and must opine on the laws of New South Wales and, if other than New South Wales, the state or territory in which the applicant/ Member is formed (the '**Relevant Jurisdiction(s)**'). The legal opinion may (without limitation) be required to include statements to the effect that:

- (i) The applicant/Member has been [incorporated/formed] as a [insert type of entity] and validly exists under the laws in force in Australia and is capable of suing and being sued.
- (ii) The applicant/Member has the capacity and power to execute the RITS Documents and to exercise its rights and perform its obligations under the RITS Documents.
- (iii) The applicant/Member has taken all necessary corporate and other action on its part to authorise the execution and delivery of the RITS Documents by the applicant/Member and the exercise of its rights and the performance of its obligations under RITS Documents.
- (iv) The execution and delivery of the RITS Documents by the applicant/Member and the exercise of its rights and the performance of its obligations under the RITS Documents are not prohibited by any law in force in the Relevant Jurisdictions applicable to the applicant/Member or by its [constituent documents].

- (v) There are no governmental or regulatory consents, approvals, authorisations or orders required under the laws of the Relevant Jurisdictions in connection with the entry into the RITS Documents by the applicant/Member or the performance by the applicant/Member of its obligations under the RITS Documents; or any such consents, approvals, authorisations or orders required have been obtained.
- (vi) The RITS Documents have been duly executed and delivered by the applicant/Member and constitute valid, legally binding and enforceable obligations of the applicant/Member.
- (vii) It is not necessary under the laws of the Relevant Jurisdictions to provide a copy of any RITS Document to a court or governmental agency in order to ensure the legality, validity, enforceability or admissibility in evidence of the RITS Document.
- (viii) The applicant/Member does not enjoy any immunity from suit in the Relevant Jurisdictions nor are its assets exempt from execution.

### **3. ENTITIES FORMED OR INCORPORATED OUTSIDE AUSTRALIA (includes foreign companies, whether or not registered in Australia)**

#### **Supporting documentation requirement**

The original Power of Attorney or other authorisation under which the RITS Documents are signed by an attorney or authorised signatory, or a copy of that Power of Attorney or other authorisation (in English) certified by an officer of the applicant/Member, a notary public or a solicitor, should be enclosed.

Note that the Power of Attorney or other authorisation must authorise the execution of the required RITS Documents or the execution of a class or category of documents, which clearly includes the required RITS Documents. If the Power of Attorney or other authorisation appoints as attorneys or authorised signatories persons holding particular positions or offices, evidence that the attorney/ies or other signatory/ies to the RITS Documents hold the relevant position or office should also be supplied.

Unless the Reserve Bank agrees otherwise, the applicant/Member must provide, at its own expense, a legal opinion as described below. This legal opinion must:

- (a) be in English;
- (b) be in form and substance acceptable to the Reserve Bank;
- (c) be from a firm of solicitors who are independent of the applicant/Member, who are currently practising in the country where the applicant/Member was incorporated or formed and the Power of Attorney (if applicable) was signed (the '**Home Jurisdiction**'), and who are acceptable to the Reserve Bank; and
- (d) include statements to the effect that:
  - (i) The applicant/Member has been [incorporated/formed] as a [insert type of entity] and validly exists and is capable of suing and being sued.
  - (ii) The applicant/Member has the capacity and power to execute the RITS Documents and to exercise its rights and perform its obligations under the RITS Documents.
  - (iii) The applicant/Member has taken all necessary corporate and other action on its part to authorise the execution and delivery of the RITS Documents by the applicant/Member and the exercise of its rights and the performance of its obligations under RITS Documents.

- (iv) The execution and delivery of the RITS Documents by the applicant/Member and the exercise of its rights and the performance of its obligations under the RITS Documents are not prohibited by any law in force in the Home Jurisdiction applicable to the applicant/Member or by its [constituent documents].
- (v) There are no governmental or regulatory consents, approvals, authorisations or orders required under the laws of the Home Jurisdiction in connection with the entry into the RITS Documents by the applicant/Member or the performance by the applicant/Member of its obligations under the RITS Documents; or any such consents, approvals, authorisations or orders required have been obtained.
- (vi) The RITS Documents have been duly executed and delivered by the applicant/Member and, assuming the RITS Documents are valid, legally binding and enforceable documents under New South Wales law, the RITS Documents constitute valid, legally binding and enforceable obligations of the applicant/Member.
- (vii) It is not necessary under the laws of the Home Jurisdiction to provide a copy of any RITS Document to a court or governmental agency in order to ensure the legality, validity, enforceability or admissibility in evidence of the RITS Document.
- (viii) The applicant/Member does not enjoy any immunity from suit in the Home Jurisdiction nor are its assets exempt from execution.
- (ix) The courts of the Home Jurisdiction will give effect to:
  - o the choice of the laws of New South Wales to govern the RITS Documents;
  - o the submission to the jurisdiction of the courts of New South Wales by the applicant/Member.
- (x) A judgement of a recognised court sitting in the Commonwealth of Australia having jurisdiction to give that judgement, finally and conclusively establishing a debt or requiring an interim payment is capable of enforcement in the Home Jurisdiction without a retrial or re-examination of the matters adjudicated.

Business Policy & Services  
Payments Settlements Department  
Reserve Bank of Australia

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