

Enforceable Undertaking

Australian Securities and Investments Commission Act 2001 (Cth)
Section 93AA

The commitments in this enforceable undertaking are offered to the Australian Securities and Investments Commission (**ASIC**) by:

National Australia Bank Limited
ACN 004 044 937
800 Bourke Street Docklands VIC 3008
(**NAB**)

1 DEFINITIONS

In addition to terms defined elsewhere in this enforceable undertaking, the following definitions are used:

Acceptance Date means the date this undertaking is accepted by ASIC.

AFSL means Australian Financial Services Licence.

AFMA means Australian Financial Markets Association Limited ACN 119 827 904.

Annual Expert Report has the meaning set out in paragraph 3.15 of this enforceable undertaking.

ASIC Act means the *Australian Securities and Investments Commission Act 2001 (Cth)*.

Bank Bill Market has the meaning set out in paragraph 2.3(b) of this enforceable undertaking.

BBSW has the meaning set out in paragraph 2.2 of this enforceable undertaking.

BBSW Controls has the meaning set out in paragraph 3.5(a) of this enforceable undertaking.

BBSW Panellist means a bank which contributed BBSW Submissions to AFMA for the BBSW rate setting process during the Relevant Period.

BBSW Procedures means the procedure entitled "Bank Bill Swap Reference Rate Procedures" established and maintained by AFMA.

BBSW Program has the meaning set out in paragraph 3.5 of this enforceable undertaking.

BBSW Referenced Products means those instruments (with the exception of Prime Bank Bills) alleged by ASIC in the Proceeding to have been either referenced to BBSW or for which the price for trading was influenced by or derived from the BBSW, including:

- (a) interest rate swaps;
- (b) forward rate agreements;
- (c) cross-currency swaps;

- (d) asset swaps;
- (e) interest rate options;
- (f) inflation swaps;
- (g) floating rate notes;
- (h) deposit taking facilities;
- (i) commercial loans; and
- (j) 90 day Bank Accepted Bill Futures.

BBSW Submission means the views of the mid-point of the bid and offer rates for Prime Bank Bills of varying maturities contributed to AFMA by BBSW Panellists prior to 27 September 2013, by 10.05am Sydney time, in accordance with the BBSW Procedures as published by AFMA during the Relevant Period.

Corporations Act means the *Corporations Act 2001* (Cth).

Corporations Legislation means the Corporations Act and the ASIC Act, as amended from time to time.

Expert Report has the meaning set out in paragraph 3.7(b) of this enforceable undertaking.

FICC means NAB's Fixed Income, Currencies & Commodities business.

Final BBSW Program has the meaning set out in paragraph 3.8 of this enforceable undertaking.

Financial Product has the meaning given to it by Division 3 of Part 7.1 of the Corporations Act.

Further Expert Report has the meaning set out in paragraph 3.9 of this enforceable undertaking.

Implementation Expert Report has the meaning set out in paragraph 3.13 of this enforceable undertaking.

Independent Expert has the meaning set out in paragraph 3.2 of this enforceable undertaking.

Internal Review Report has the meaning set out in paragraph 3.14(a) of this enforceable undertaking.

Investigation means the investigation or investigations commenced by ASIC pursuant to section 13 of the ASIC Act in relation to NAB and its current or former Representatives' participation in the BBSW rate set process, and trading in Prime Bank Bills.

NAB means National Australia Bank Limited ACN 004 044 937 (AFSL 230686).

NAB BBSW Products means instruments to which NAB is a party under which one or more payment obligations are expressly referenced to BBSW.

NAB Supervisors means Representatives who have supervisory and/or management responsibility for NAB Traders.

NAB Traders means Prime Bank Bill Traders, Representatives that trade BBSW Referenced Products and Representatives that are or will be authorised to report transactions to any external administrator for the purposes of determining BBSW.

Prime Bank Bills means bank accepted bills and negotiable certificates of deposit issued by banks that were designated as AFMA Prime Banks during the Relevant Period.

Prime Bank Bill Trader means a person who deals, or makes decisions regarding dealing, in Prime Bank Bills on behalf of NAB.

Proceeding means the Federal Court proceedings ASIC commenced against NAB on 7 June 2016 (VID604/2016).

Relevant Period means the period 8 June 2010 to 24 December 2012.

Relevant STIRR Employees has the meaning set out in paragraph 3.18 of this enforceable undertaking.

Representative means any employee, director or any other person acting on behalf of NAB as a licensee.

STIRR or STIRR desk has the meaning set out in paragraph 2.5 of this enforceable undertaking.

Trading Activities means the following:

- (a) dispose of, issue or acquire Prime Bank Bills on behalf of NAB;
- (b) make decisions as to whether to dispose of, issue or acquire Prime Bank Bills on behalf of NAB; or
- (c) procure or advise any other Representative of NAB to dispose of, issue or acquire Prime Bank Bills on behalf of NAB,

Except so far as the contrary intention appears in this enforceable undertaking, the interpretation provisions in Part 1.2 of the Corporations Act and Part 2 Division 4 of the ASIC Act apply for the purposes of this enforceable undertaking as if those provisions were provisions of this enforceable undertaking.

2 BACKGROUND

- 2.1 Under section 1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

Bank Bill Swap Reference Rate Mechanism during the Relevant Period

- 2.2 In the Relevant Period, the process for the calculation of the Bank Bill Swap Reference Rate (BBSW) on each Sydney business day was prescribed in the BBSW Procedures as follows:
- (a) on each Sydney business day, AFMA received submissions relating to the bid and offer rates of Prime Bank Bills from BBSW Panellists who were participants in the Bank Bill Market who had inputted their submissions into the AFMA data system;

- (b) AFMA required each BBSW Panellist to make a submission to AFMA by 10:05am Sydney time on each Sydney business day as to the BBSW Panellist's view as to the mid-point of the bid and offer rates at which Prime Bank Bills in each tenor were trading at 10.00am on each trading day;
- (c) following the receipt of submissions from the BBSW Panellists, the highest and lowest mid-rates submitted for each tenor were eliminated until a maximum of eight submissions remained;
- (d) the BBSW for that day was calculated, or "set", by AFMA by ascertaining, to four decimal places, the average of the remaining mid-rates for each tenor.

2.3 While Prime Bank Bills were traded both through:

- (a) direct and unintermediated trades between issuers and other holders of Prime Bank Bills; and
- (b) interdealer brokers ICAP Brokers Pty Limited and Tullett Prebon (Australia) Pty Limited who acted as intermediaries by quoting prices at which their respective clients would buy (bid) and sell (offer) Prime Bank Bills between one another (the **Bank Bill Market**),

the majority of trading in Prime Bank Bills in the Bank Bill Market during the Relevant Period occurred between approximately 9.55am and 10.05am.

NAB's Bank Bill trading during the Relevant Period

- 2.4 During the Relevant Period, NAB was a Prime Bank and both an issuer of Prime Bank Bills and a BBSW Panellist.
- 2.5 In addition to NAB Treasury issuing Prime Bank Bills for the purposes of funding, NAB had a short term interest rate desk (**STIRR** or **STIRR desk**) within its Global Markets division that bought and sold Prime Bank Bills through the Bank Bill Market. Employees of NAB assigned to STIRR also regularly entered into BBSW Referenced Products, namely forward rate agreements and interest rate swaps, that had reset or rollover dates on which an obligation to pay or receive monies was determined by reference to where BBSW set on a particular day.
- 2.6 Accordingly, STIRR had, on occasions, holdings of BBSW Referenced Products that would reset or rollover on the basis of where BBSW set that day, with a consequence of the reset or rollover being that STIRR would (depending on how BBSW set) be obliged to make or receive greater or lesser payments under those products. Employees of NAB assigned to STIRR were able to ascertain the exposure that STIRR had to daily BBSW sets, but were not systematically provided with the exposures of any other desks or business units within NAB.

ASIC's proceedings against NAB

- 2.7 On 7 June 2016 ASIC commenced proceedings against NAB in the Federal Court of Australia.
- 2.8 In the Proceeding ASIC alleged, among other things, that on certain days NAB traded in Bank Bills with the intention of affecting the level at which the BBSW set so as to benefit from its exposure to the BBSW.
- 2.9 In the Proceeding, ASIC and NAB have agreed facts which are contained in a Statement of Agreed Facts.

3 UNDERTAKINGS

- 3.1 Under section 93AA of the ASIC Act and as part of the finalisation of the Proceeding as a consequence of admissions by NAB to contraventions of the Corporations Legislation, NAB has offered, and ASIC has agreed to accept the following undertakings in resolution of the Investigation.

Changes to NAB's BBSW Controls

Engagement of Independent Expert

- 3.2 NAB undertakes to agree to the appointment by ASIC of an independent expert (**Independent Expert**) who, in ASIC's opinion:
 - (a) has the necessary expertise, experience and operational capacity to perform the role contemplated by this enforceable undertaking; and
 - (b) is independent of NAB, its related bodies corporate and its officers at the time of the appointment, and who will at all material times be capable of exercising objective and impartial judgement.
- 3.3 NAB undertakes to agree that the terms of engagement of the Independent Expert appointed by ASIC will include at least the following:
 - (a) a statement to the effect that the work of the Independent Expert is being carried out for NAB and ASIC, and acknowledging that ASIC is relying on the work of the Independent Expert;
 - (b) a statement that upon request ASIC is to be copied into all or some communications between NAB and the Independent Expert;
 - (c) a requirement that the Independent Expert notify ASIC where a conflict of interest arises during the engagement or when the Independent Expert becomes aware of information that adversely affects its ability to exercise objective and impartial judgement;
 - (d) a requirement that the Independent Expert perform the work, and provide the written reports to ASIC and NAB, as set out at paragraphs 3.7(b), 3.9, 3.13 and 3.15;
 - (e) an acknowledgement that in relation to the written reports to be provided to ASIC and NAB as described in paragraphs 3.7(b), 3.9, 3.13 and 3.15, ASIC may from time to time publicly refer to the content of the written report(s), and may make a summary of the content of the written report(s) or a statement that refers to the content of the written report(s) public (subject to paragraph 4.4); and
 - (f) a requirement that the written reports of the Independent Expert:

- (i) set out separately each of the factual findings or assumptions on which the Independent Expert's opinion is based;
- (ii) set out separately from the factual findings or assumptions each of the Independent Expert's opinions;
- (iii) set out the reasons for each of the Independent Expert's opinions; and
- (iv) where the Independent Expert believes that its written report may be incomplete or inaccurate without some qualification, that qualification.

Undertakings to ensure access for an expert

3.4 NAB undertakes to:

- (a) permit the Independent Expert, to the extent that it is reasonable having regard to the requirements of this enforceable undertaking, to have access to its books and to interview current employees;
- (b) give the Independent Expert any information or explanation reasonably requested by the Independent Expert of any matter in any way connected with the written reports required to be prepared by the Independent Expert under this enforceable undertaking; and
- (c) otherwise reasonably assist the Independent Expert in carrying out the terms of its engagement and producing the written reports required to be prepared by the Independent Expert under this enforceable undertaking.

Proposed BBSW Program

3.5 NAB undertakes to, within three months of the date of the appointment of the Independent Expert (or such later date as agreed between ASIC and NAB), provide to ASIC and the Independent Expert a program (**BBSW Program**):

- (a) of changes to its existing policies, procedures, systems, controls, training, guidance and framework for monitoring and supervision of employees (**BBSW Controls**) in its Prime Bank Bill and NAB BBSW Product businesses to prevent, detect and respond to attempts to influence benchmark rates including through trading in Prime Bank Bills in order to ensure compliance with NAB's obligations under the Corporations Legislation; and
- (b) which specifies the date by which each proposed action will be taken.

3.6 NAB undertakes that the BBSW Program will include (but not be limited to) the following:

Compliance with guidelines from the BBSW administrator

- (a) the establishment of BBSW Controls to ensure compliance with the ASX BBSW Trade and Trade Reporting Guidelines (as amended or replaced by the BBSW administrator from time to time and insofar as compliance is reasonably practicable at any given time having regard to the state of implementation of the VWAP BBSW methodology);

Separation of NAB's Prime Bank Bill and BBSW Referenced Product trading

- (b) the physical, technological and structural segregation of employees involved in the issuance or trading of Prime Bank Bills from information about NAB's BBSW rate set exposure, except to the extent that a Representative of NAB who is responsible for bank funding:
 - (i) issues or disposes of Prime Bank Bills on behalf of NAB;
 - (ii) make decisions as to whether to issue or dispose of Prime Bank Bills on behalf of NAB; or
 - (iii) procures or advises any other Representative of NAB to issue or dispose of Prime Bank Bills on behalf of NAB,

in circumstances where NAB has in place compliance systems and processes to manage any conflicts of interest including:

- (iv) procedures to record the basis on which the relevant Representatives determined that Prime Bank Bills are relevantly disposed of or issued for the purpose of funding NAB;
- (v) ensure compliance monitoring of the activities described in paragraphs 3.6(b)(i) to 3.6(b)(iii); and
- (vi) ensure that the remuneration of Representatives involved in the activities described in paragraphs 3.6(b)(i) to 3.6(b)(iii) is not determined by reference to revenue derived by NAB (or business units of NAB) through BBSW Referenced Products.

Guidance and training

- (c) revisions to the written policies, procedures and guidelines provided to NAB Traders covering:
 - (i) the need to safeguard the interests of customers and counterparties; and
 - (ii) ethics and conflicts of interest;
- (d) a mandatory face-to-face training program by an appropriately qualified external independent training provider, which includes a compulsory test, for all current NAB Traders and current NAB Supervisors covering:
 - (i) compliance with the Corporations Legislation in respect of trading on markets for fixed income products;
 - (ii) the need to safeguard the interests of customers and counterparties; and
 - (iii) ethics and conflicts of interest;
- (e) a requirement that the requirements of paragraph 3.6(d) above shall also apply to all new NAB Traders and shall be performed prior to their commencing in that role;

Monitoring and period audits

- (f) an appropriate monitoring system of NAB Traders' communications on electronic trading platforms and dedicated electronic communications and their trading in Prime Bank Bills that includes, if and as appropriate:
 - (i) real-time or close to real-time monitoring of communications and Trading Activities, including the setting of system monitoring parameters (alerts) designed to detect potential misconduct;
 - (ii) event-driven reviews of communications and Trading Activities (such as for above-average rate set exposures or where there are large movements in the BBSW rate set relative to the previous day);
 - (iii) regular, periodic review of the adequacy of the system monitoring parameters; and
 - (iv) historic trading pattern review;
- (g) periodic audits of a reasonable and random sample of material captured by its communications and trading, with the aim of identifying any attempt to influence benchmark rates;
- (h) measures to prevent access by employees to alternative means of communication which are not recorded by NAB;

Appropriate limits

- (i) the setting of appropriate limits (including reducing limits in appropriate circumstances) for the trading of Prime Bank Bills, which are approved by a relevant supervisor and which are monitored in real time and periodically reviewed;

Record retention

- (j) the recording and retention in an easily accessible format for a period of seven (7) years from the Acceptance Date of communications (whether electronic or audio) relating to trading in Prime Bank Bills and BBSW Referenced Products;
- (k) the recording and retention in an easily accessible format for a period of seven (7) years from the Acceptance Date of transactions records and position and risk reports relating to:
 - (i) trading in Prime Bank Bills including, but not limited to, the name of the employee responsible for the transaction, tenor, maturity date, price, volume, date and time of execution, and date and time of booking; and
 - (ii) any trading by NAB Traders;

Complaints and reporting

- (l) the handling of complaints concerning attempts to influence benchmark rates, and the reporting of complaints to ASIC; and
- (m) a system for ensuring the prompt reporting to ASIC of any attempts to influence benchmark rates.

Assessment by Independent Expert

- 3.7 The Independent Expert will be required to, within three months of receipt of the BBSW Program under paragraph 3.5 (or such later date as agreed between ASIC and NAB):
- (a) conduct an assessment of the effectiveness of the BBSW Program to prevent, detect and respond to the matters set out at paragraph 3.5(a); and
 - (b) provide a written report (**Expert Report**) to NAB and ASIC on the assessment referred to in paragraph 3.7(a), including:
 - (i) identification of any deficiencies in the BBSW Program; and
 - (ii) recommendations for actions that, in the opinion of the Independent Expert, would be necessary for NAB to implement to rectify deficiencies identified in the Expert Report.

Provision of Final BBSW Program

- 3.8 NAB undertakes to, within three months of receipt of the Expert Report (or such later date as agreed between ASIC and NAB), provide to ASIC and the Independent Expert a revised BBSW Program (**Final BBSW Program**) which:
- (a) incorporates the actions NAB proposes to take to implement recommendations identified in the Expert Report;
 - (b) in respect of any recommendation identified in the Expert Report which NAB will not implement, provides reasons and an alternative action (if any) that NAB proposes to take to address the cause of the recommendation in the Expert Report;
 - (c) specifies the date by which each action will be taken; and
 - (d) provides for all proposed changes to be implemented in a reasonable timeframe.
- 3.9 The Independent Expert will be required to, within 10 days of receipt of the Final BBSW Program (or such later date as agreed between ASIC and NAB), provide a written report (**Further Expert Report**), with reasons, to ASIC and NAB reporting on whether, in the opinion of the Independent Expert, and having regard to any reasons and proposed alternative actions provided by NAB under paragraph 3.8(b), the Final BBSW Program addresses the bases for the recommendations in the Expert Report.
- 3.10 NAB undertakes to seek to agree with ASIC the terms of the Final BBSW Program, each acting reasonably. If NAB and ASIC are unable to reach agreement on any of the terms of the Final BBSW Program, then the provisions of paragraph 3.11(c) apply to the implementation of such terms as are agreed.

Implementation of Final BBSW Program

- 3.11 NAB undertakes to:
- (a) ensure that sufficiently qualified and skilled staff are employed to discharge the Final BBSW Program; and

- (b) implement the Final BBSW Program in full, and within the timeframes specified in the Final BBSW Program, or such varied timeframes as are agreed by ASIC; or
 - (c) alternatively to paragraph 3.11(b), in the event that not all terms of the Final BBSW Program are agreed by NAB and ASIC, implement those terms of the Final BBSW Program which are agreed, within the timeframes specified in the Final BBSW Program, or such varied timeframes as are agreed by ASIC.
- 3.12 NAB undertakes to, within 20 days of full implementation of the Final BBSW Program, provide written confirmation to ASIC and the Independent Expert that:
- (a) the Final BBSW Program has been fully implemented; and
 - (b) it believes the Final BBSW Program is effective, to the extent reasonably possible, to address the matters set out at paragraph 3.5(a),

signed by NAB's Group Treasurer, the Executive General Manager – FICC and the Group Chief Risk Officer or, in the event of those positions being discontinued, by three members of senior management of NAB as agreed with ASIC.

Assessment of BBSW Program implementation by the Independent Expert

- 3.13 The Independent Expert will be required to, within three months after the receipt of NAB's notification under paragraph 3.12 (or such later date as agreed between ASIC and NAB), conduct an assessment of the effectiveness of NAB's implementation of the Final BBSW Program and to provide a written report (**Implementation Expert Report**) on the outcome of such assessment to NAB and ASIC as soon as practicable after that assessment.
- 3.14 NAB undertakes that, every year for a period of three years from the provision of the confirmation referred to at paragraph 3.12 of this enforceable undertaking, it will:
- (a) conduct an internal review of the current operation of the Final BBSW Program (including any material changes) and document the results of that review (**Internal Review Report**);
 - (b) provide a copy of the Internal Review Report to the Executive General Manager – FICC and the Group Chief Risk Officer; and
 - (c) provide a copy of the Internal Review Report to ASIC and the Independent Expert.
- 3.15 The Independent Expert is to, within two months of receipt of each of the Internal Review Reports (or such later date as agreed between ASIC and NAB), conduct an assessment of the effectiveness of the Final BBSW Program, as then in operation (and including any material changes), to prevent, detect and respond to matters set out at paragraph 3.5(a), and to provide a written report (**Annual Expert Report**) on the outcome of such assessment to NAB and ASIC.

NAB to pay the costs of the Independent Expert

- 3.16 NAB undertakes to pay the costs of the Independent Expert appointed by ASIC.

Annual attestation

- 3.17 NAB undertakes that each year for a period of 3 years from the full implementation of the Final BBSW Program, the Group Chief Risk Officer will attest that:
- (a) he or she has taken reasonable steps to satisfy himself or herself that the systems and controls in place to ensure the effectiveness of the Final BBSW Program (including any material changes) are appropriate and adequate to effectively prevent, detect and respond to the matters set out at paragraph 3.5(a); and
 - (b) nothing has come to his or her attention during the previous 12 months to suggest that the Final BBSW Program (including any material changes) is not appropriate, to the extent reasonably possible, to address the matters set out at paragraph 3.5(a); or
 - (c) identifies any matters that have come to his or her attention during the preceding 12 months that would indicate that the Final BBSW Program (including any material changes) is not appropriate, to the extent reasonably possible, to address the matters set out at paragraph 3.5(a) and the steps NAB has taken to address those matters.

Compulsory compliance training for current and former STIRR employees

- 3.18 NAB undertakes to, within seven days of the Acceptance Date, suspend any persons who remain its current employees and who were members of the STIRR desk, or heads of the STIRR desk during the Relevant Period (**Relevant STIRR Employees**) from Trading Activities until ASIC is satisfied that:
- (a) the Relevant STIRR Employees have actively and in good faith participated in a program of compliance training conducted by an appropriately qualified external independent training provider focused on compliance with the Corporations Legislation in respect of trading on markets for fixed income products;
 - (b) NAB has undertaken a review of each Relevant STIRR Employees' remuneration arrangements including the appropriateness of their base salary and bonus settings and NAB's entitlement to clawback and withhold bonuses in the event of misconduct;
 - (c) NAB has considered, taking into account the Relevant STIRR Employees' historical work performance and conduct and the Employees' training results in paragraph 3.18(a), the Relevant STIRR Employees' suitability for their existing role, including whether it might be appropriate to redeploy them to different roles; and
 - (d) NAB has designed and implemented a specific program to monitor the communications and Trading Activities of the Relevant STIRR Employees including:
 - (i) ongoing spot auditing, at least fortnightly in frequency, by the compliance team of each Relevant STIRR Employee to identify any inappropriate behaviour in respect of the issuance or trading of Prime Bank Bills;
 - (ii) regular reporting to ASIC of the monitoring and spot auditing of the Relevant STIRR Employees;

- (iii) clear consequences (including consequences to remuneration) of any inappropriate behaviour in respect of the issuance or trading of Prime Bank Bills; and
- (iv) deferral of bonuses until a period of 12 months has elapsed during which the ongoing spot audits in paragraph 3.18(d)(i) do not identify any inappropriate trading activity.

Community Benefit Payment

3.19 NAB undertakes to pay the amount of \$20 million to a Financial Consumer Protection or similar Fund or Funds (**the Fund**), to be nominated by ASIC, by 31 March 2018 or such later date as ASIC may agree. The Fund will finance any one or more of the following purposes:

- (a) promoting the confident and informed participation of investors and consumers in the financial system;
- (b) promoting understanding of the protection afforded to corporate whistleblowers and providing advice and other support to them;
- (c) promoting such other purposes agreed by ASIC that are consistent with ASIC's functions under subsections 12A(2) and (3) of the ASIC Act.

The Fund will be invested, distributed and otherwise administered by a board or other entity(ies) independent of ASIC. The fees and expenses of the administrator in this role may be paid from the Fund. The Fund will not be used to fund ASIC employees or ASIC's operations.

Other undertakings

3.20 NAB undertakes to pay the costs of its compliance with this enforceable undertaking.

3.21 NAB undertakes to provide all documents and information requested by ASIC from time to time for the purpose of assessing NAB's compliance with the terms of this enforceable undertaking.

3.22 NAB undertakes to notify ASIC as soon as reasonably practicable and in any event within five business days of becoming aware of any failure by NAB to comply with a term of this enforceable undertaking.

4 ACKNOWLEDGEMENTS

4.1 NAB acknowledges that ASIC:

- (a) may issue a media release on execution of this undertaking referring to its terms and to the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this undertaking;
- (c) will, subject to paragraph 4.4 from time to time publicly report about compliance with this undertaking; and
- (d) will make this undertaking available for public inspection.

- 4.2 In relation to the written reports to be provided to ASIC and NAB under paragraphs 3.7(b), 3.9, 3.13 and 3.15, NAB acknowledges that ASIC:
- (a) may issue a media release referring to the content of the written reports;
 - (b) may, subject to paragraph 4.4, from time to time publicly refer to the content of the written reports; and
 - (c) will make available for public inspection a summary of the content of the written reports, or a statement that refers to the content of those reports.
- 4.3 NAB acknowledges that ASIC may, subject to paragraph 4.4, from time to time publicly refer to the terms of the Final BBSW Program.
- 4.4 ASIC acknowledges that it will delete, remove or not refer to any specific information from a written report or the Final BBSW Program that:
- (a) consists of personal information of an identified natural person whose acts or omissions are not the subject of, or a concern mentioned in, this enforceable undertaking;
 - (b) ASIC is satisfied would be unreasonable to release because the release of the information would unreasonably affect the business, commercial or financial affairs of NAB or a third party otherwise than in a way that arises from the execution, implementation and reporting of the outcomes of the enforceable undertaking;
 - (c) ASIC is satisfied should not be released because it would be against the public interest to do so; or
 - (d) NAB has requested not to be released if ASIC is satisfied that the information:
 - (i) would be unreasonable to release because the release of the information would unreasonably affect the business, commercial or financial affairs of NAB otherwise than in a way that arises from the execution, implementation and reporting of the outcomes of the enforceable undertaking; or
 - (ii) it should not be released because it would be against the public interest to do so.
- 4.5 NAB acknowledges that:
- (a) ASIC's acceptance of this undertaking does not affect ASIC's power to investigate or conduct surveillance, or institute proceedings against NAB or any present or former employee of NAB, in respect of:
 - (i) the criminal consequences of any conduct the subject of or arising out of the Proceeding;
 - (ii) any conduct that occurred or may occur after 27 September 2013;
 - (iii) any evidence relating to the matters the subject of the Proceeding which was not in ASIC's possession at the time of entering into this Enforceable Undertaking; and
 - (iv) any matter other than the matters the subject of the Proceeding or the Investigation; and

- (b) This enforceable undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this undertaking or arising from future conduct.


Signing page

DATED: 16 NOVEMBER 2017

EXECUTED by NATIONAL
AUSTRALIA BANK LIMITED in
accordance with section 127(1) of the
Corporations Act 2001 (Cth) by
authority of its directors:


Signature of director

ANDREW THORBURN
Name of director (block letters)


Signature of ~~director~~/company
secretary*
*delete whichever is not applicable

LOUISE THOMSON
Name of ~~director~~/company secretary*
(block letters)
*delete whichever is not applicable

ACCEPTED by the AUSTRALIAN
SECURITIES AND INVESTMENTS
COMMISSION under section 93AA of
the *ASIC Act* by its duly authorised
delegate:


Delegate of Australian Securities and
Investments Commission

SHARON CONCISION
Name (block letters)

20 NOVEMBER 2017