

**Australian Securities and Investments Commission
Corporations Act 2001 – Subsection 257D(4) – Exemption**

Enabling legislation

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under subsection 257D(4) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Instrument 21-0699.

Commencement

3. This instrument commences on the date it is signed.

Exemption

4. Commonwealth Bank of Australia ACN 123 123 124 (**Company**) does not have to comply with subsections 257D(1), 257D(2) and 257D(3) of the Act.

Where this instrument applies

5. This instrument applies in relation to the off-market tender buy-back to be made available to all Shareholders (other than Excluded Shareholders), commencing on or around 30 August 2021 which:
 - (a) is substantially on the terms contemplated in the Buy-Back Invitations;
 - (b) complies with the conditions in subsection 257B(2) of the Act, subject to subsection 257B(3) of the Act, except that:
 - i. the Company does not comply with paragraph 257B(2)(a) of the Act but rather the Buy-Back Invitations relate only to Shares;
 - ii. the Company does not comply with paragraph 257B(2)(b) of the Act but rather invites all Eligible Shareholders to offer their Shares for sale to the Company in accordance with the terms and conditions of the Buy-Back Invitations;
 - iii. the Company does not comply with paragraph 257B(2)(c) of the Act but rather all Eligible Shareholders have a reasonable opportunity to offer their Shares for

sale to the Company in accordance with the terms and conditions of the Buy-Back Invitations;

- iv. the Company does not comply with paragraph 257B(2)(d) of the Act but rather the buy-back agreements are not entered into until after the Tender Period has closed; and
- v. the Company does not comply with paragraph 257B(2)(e) of the Act but rather the Buy-Back Invitations are to be made to all Eligible Shareholders for those holders to tender their Shares for sale to the Company and for the Company to buy-back those Shares subject to:
 - A. each Eligible Shareholder having the ability to nominate a minimum price condition in relation to their Tender(s);
 - B. each Eligible Shareholder having the ability to nominate a maximum number of Shares which they wish to offer for sale to the Company;
 - C. if the Eligible Shareholder holds both Shares and Restricted Employee Shares, the Company only accepting offers in respect of the number of Shares they hold;
 - D. if the Eligible Shareholder holds 100 Shares or less at the Record Date, they must tender all of their Shares (at one Tender Discount or as a Final Price Tender) if they wish to participate in the buy-back;
 - E. if the Eligible Shareholder holds more than 100 Shares, they may tender any number of Shares they hold (at one or more Tender Discounts or as a Final Price Tender), subject to a minimum of 100 Shares (in aggregate) and a maximum of the number shown on their Tender Form; and
- vi. the Company does not comply with paragraph 257B(2)(e) of the Act but rather the Buy-Back Invitations need not be made to Excluded Shareholders, and any Tender received from Excluded Shareholders need not be accepted by the Company.

Conditions of the relief

- 6. The number of Shares that the Company buys back, either as a result of the Buy-Back Invitation or as a result of any other buy-back by the Company during the 12 months before the date on which the Company buys back the Shares must not exceed 10% of the smallest number of votes attaching to voting Shares on issue at any time during the 12 months before the date on which the Company buys back the Shares.
- 7. The Company must ensure that the Buy-Back Invitations include a term that:

- (a) if, at the close of the Tender Period, the Company has received Tenders that in aggregate are more than the Buy-Back Amount:
 - i. the Company will buy back the Buy-Back Amount (or such lesser number as the Company may determine); and
 - ii. the number of Shares in each Eligible Shareholder's Tender that will be bought back will be reduced in accordance with the Scale Back Mechanism;
- (b) the Buy-Back Price will be calculated by applying the Buy-Back Discount following the end of the Tender Period to the Market Price; and
- (c) if an Eligible Shareholder tenders their Shares subject to a Minimum Price, their Tender will be rejected if the Buy-Back Discount results in a Buy-Back Price that is lower than the Minimum Price.

Interpretation

8. In this instrument:

ASX means ASX Limited (ABN 98 008 624 691) or the financial market that it operates, as appropriate.

Buy-Back Amount means the number of Shares that the Company decides to buy-back, provided that the number of Shares that the Company buys back, when combined with any other Shares bought back by the Company during the 12 months before the day on which the Company buys back the Shares, does not exceed 10% of the smallest number of votes attaching to Shares on issue at any time during the 12 months before the date on which the Company buys back the Shares.

Buy-Back Booklet means the document to be lodged on or about 11 August 2021, being in substantially the same form as the booklet provided to ASIC on 25 June 2021.

Buy-Back Discount means the tender discount to be selected by the Company in accordance with the Buy-Back Booklet, being the largest Tender Discount in the range of 10% to 14% inclusive (at 1% intervals), which will enable the Company to buy-back the Buy-Back Amount.

Buy-Back Invitation means the invitation by the Company to its Eligible Shareholders to offer to sell Shares to the Company as set out in the Buy-Back Booklet.

Buy-Back Price means the price per Share at which the Company will buy-back Shares from Tenders it accepts in the buy-back, rounded to the nearest cent. This price is determined by applying the Buy-Back Discount selected by the Company to the Market Price.

Eligible Shareholder means a Shareholder who is not an Excluded Shareholder.

Excluded Foreign Shareholder means any person who:

- (a) hold Shares and to whom the Company would be prohibited from paying money pursuant to any act, rule or regulation of Australia which prohibits the Company from making payments to foreign persons; or
- (b) does not have a registered address in Australia or New Zealand and holds Shares and resides in a jurisdiction where it would be illegal under the laws of that jurisdiction to permit shareholders residing in that jurisdiction to receive an invitation, or to participate in the buy-back (or which has laws which the Company determines would be impractical for it to comply with in order to permit Shareholders residing in that jurisdiction to receive a Buy-Back invitation, or to participate in the buy-back); or
- (c) is acting on behalf of or for the account of a person who holds Shares and resides in a jurisdiction outside Australia or New Zealand where it would be illegal under the laws of that jurisdiction to permit such person residing in that jurisdiction to receive a Buy-Back invitation, or to participate in the buy-back, for a shareholder (or which has laws which the Company determines would be impractical for it to comply with in order to permit shareholders residing in that jurisdiction to receive a Buy-Back invitation, or to participate in the buy-back, for a shareholder).

For the avoidance of doubt, Excluded Foreign Shareholders include any person who is (or who is acting on behalf of or for the account of a person who is) in the United States, a US Person or a resident of Canada.

Excluded Shareholder means any:

- (a) Excluded Foreign Shareholder;
- (b) shareholder who holds only Restricted Employee Shares; or
- (c) Director, Group Executive of the Company or certain other management involved in the implementation of the Buy-Back.

Final Price Tender means a Tender in which an eligible Shareholder elects to receive the Buy-back Price determined in accordance with the Buy-back Invitation.

Market Price means the VWAP of the Company's ordinary shares on ASX over the five trading days up to and including the date the Tender Period closes, as determined by the Company.

Minimum Price means one of the specified prices on the Tender Form that an Eligible Shareholder may select in order for their Tender to be conditional upon the Buy-Back Price being equal to or greater than that amount.

Priority Allocation means, in the event of a scale-back, the first 100 Shares successfully tendered by each Eligible Shareholder that the Company will buy back, or such lesser number of Shares as determined by the Company.

Record Date means the date for eligibility to participate in the buy-back, being on or around 18 August 2021.

Restricted Employee Shares means fully paid ordinary shares in the Company held pursuant to an employee equity incentive scheme (**EIS**) where, as at the Record Date, under the terms of the EIS (a) the holder would not be entitled to sell those shares pursuant to the Buy-Back Invitation or (b) the shares are subject to forfeiture.

Scale Back Mechanism means the reduction of Shares bought back by the Company on the terms and conditions set out in the Buy-Back Invitations and to be applied to Tenders from Eligible Shareholders on a substantially pro-rata basis, except that it will not apply to Tenders from Small Holders or in relation to Priority Allocations.

Shareholder means a holder of Shares at the Record Date.

Shares means fully paid ordinary shares in the Company (other than Restricted Employee Shares).

Small Holder means;

- (a) an Eligible Shareholder who holds 20 Shares or fewer as at the Record Date; and
- (b) an Eligible Shareholder who tendered all their Shares at a Tender Discount which is equal to or greater than the Buy-Back Discount (and/or as a Final Price Tender) and would hold 20 or fewer Shares if the Scale Back Mechanism were applied to their Tender;

Tender means an offer made in accordance with the Buy-back Invitation by an Eligible Shareholder to sell to the Company a specified number of Shares at a specified Tender Discount or as a Final Price Tender by delivering to the Company a Tender Form (which has not been withdrawn).

Tender Discount means one of the specified discounts to the Market Price (from 10% to 14%, inclusive at 1% intervals) as set out in the Tender Form.

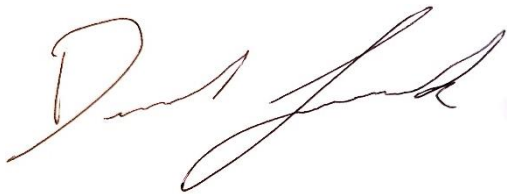
Tender Form means the form of offer by eligible Shareholders to sell their nominated Shares to the Company, which accompany the Buy-Back Booklet or represented by instructions from its CHESS holder's controlling participant or any electronic offer form (and includes a form of offer amended in accordance with the procedure set out in the Buy-Back Booklet).

Tender Period means the period within which Eligible Shareholders may lodge, withdraw or amend a Tender in accordance with the procedures set out in the Buy-Back Booklet.

US Persons has the meaning given by Regulation S under the United States' Securities Act of 1933, as at the date of this instrument.

VWAP means, for a Share, the volume weighted average price of all trades on ASX's trading platform including the closing single price auction, but excluding all off-market trades (including any transactions defined in the operating rules of the ASX as special crossings, crossings prior to the commencement of the open session state, crossings during overnight trading, overseas trades, trades pursuant to the exercise of options over Shares, and any other trades that the directors of the Company determine to exclude on the basis that the trades are not fairly reflective of natural supply and demand).

Dated this 11th day of August 2021

A handwritten signature in black ink, appearing to read 'Daniel Slupek', written in a cursive style.

Signed by Daniel Slupek
as a delegate of the Australian Securities and Investments Commission