

Final Independent Expert Summary Report: Licensee Review

Pershing Securities Australia Pty Ltd

28 October 2020

LIMITATIONS

This Summary Report is prepared to provide a high level summary of our work carried out as the Independent Expert as defined within Condition 10 of the License Condition between Pershing Securities Australia Pty Ltd (Pershing) and the Australian Securities & Investments Commission (ASIC) solely for the purpose set out in Section 1.2 of this Summary Report.

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If there have been any changes in the systems, processes and controls since issuing our Report these have not been considered in preparing this Summary Report.

1. Summary report

1.1 Introduction

On 9 December 2019, Pershing Securities Australia Pty Ltd (Pershing) accepted additional licence conditions imposed by the Australian Securities & Investments Commission (ASIC) on its Australian Financial Services (AFS) licence.

Schedule 10(a) of the Licence Condition required Pershing to appoint an Independent Expert (IE) to conduct a review (Licensee Review) of whether Pershing has a current and ongoing ability to comply with its obligations under subsections 912A(1)(d)(e) and (h) of the Corporations Act 2001 (Cth) (the Act), and the requirements of sections 981B and 981C of the Act.

Ernst & Young (EY) was approved by ASIC and engaged by Pershing on 7 April 2020 to serve as the IE.

This Report details our assessment results and recommendations from our Licensee Review for the period 1 April 2019 to 31 March 2020.

1.2 Our scope

Our scope, as defined in paragraph 10(a) of the Licence Conditions, was to independently assess and report on whether Pershing has a current and ongoing ability to comply with its obligations under subsections 912A(1)(d)(e) and (h) of the Act, and the requirements of sections 981B and 981C of the Act, with reference to the adequacy of Pershing's:

- ▶ Incident management framework, and
- ▶ Human resources (capacity and capability).

(Collectively referred to as the 'Obligations').

Further, where relevant, to identify any Remedial Actions necessary to effectively address any concerns arising from the Licensee Review.

1.2.1 Limitations and declarations

Our work was not performed in accordance with generally accepted auditing, review, or other assurance standards in Australia and accordingly does not express any form of assurance. None of the Services or any Reports constitute any legal opinion or advice. Our work was not designed to detect fraud or illegal acts.

We have remained independent of the Licensee, its related bodies corporate and its officers throughout our appointment.

We believe we have made all relevant enquiries in connection with our assessment having considered the requirements of Licence Condition 10 and 12.

We have no reason to believe that Pershing has not provided us with full access to all documents, systems and people we have requested. To our knowledge no material information has been withheld from us.

1.3 Our approach

Prior to commencing our Licensee Review, we shared with ASIC a work program and testing methodology that set out the nature and extent of our activities, including:

- ▶ Reviewing frameworks, policies and procedures relating to human resources capacity and capability and incident management
- ▶ Interviews and briefing sessions with Pershing stakeholders and business representatives across the Three Lines of Defence (3LoD)
- ▶ Sample testing the operating effectiveness of frameworks, policies, procedures and controls during the review period 1 April 2019 to 31 March 2020.

In preparing our work program, we considered relevant regulatory guidance including, but not limited to: ASIC's Regulatory Guide (RG) 104: Licensing - Meeting the general obligations, ASIC 314 Market integrity rules for technological and operational resilience and ASX Clear Operating Rules Guidance Note 10: Business Continuity and Disaster recovery.

1.4 Our results

Pershing consists of approximately 90 staff in Australia, operating a flat organisational structure to deliver execution, clearing and settlement services of both domestic and international securities to its correspondents.

The Licence Condition requires us to perform an independent Assessment of whether Pershing has a current and ongoing ability to comply with its Obligations, and to identify what, if any, Remedial Actions are necessary to address any concerns arising from the Licensee Review.

We have interpreted a concern to mean whether, in our independent professional judgement, Pershing could not demonstrate that it has a current and ongoing ability to comply with its obligations, considering its size, nature, and complexity of its business.

Based on our independent Assessment, we identified no concerns regarding Pershing's current and ongoing ability to comply with its Obligations.

Future compliance will depend on Pershing maintaining these or equivalent arrangements and ensuring they continue to be sustainable and fit-for-purpose.

Pershing was able to demonstrate the steps it has taken since 2017, and continues to take, to address identified shortcomings in its management of client money obligations and implementation of its 3LoD model – as prescribed by its parent company Bank of New York Mellon Corporation (BNY Mellon or Group).

Pershing has seen steady growth in its human resources, with specific focus on its Second Line function and Technology team. This has created a more traditional segregation between its First and Second Lines of Defence.

We have identified several non-material findings which we believe are relevant for Pershing to address as part of its normal course of business / continuous improvement arrangements. We do not believe these generate a 'concern' as required by the Licence Condition and understood by us. We do not believe these findings materially limited Pershing's ability to fulfil its licence conditions but note it has agreed to incorporate these improvements into its business nonetheless.

As often seen within organisational change programs, succinct and aligned documentation often lags the enactment of the change itself. Our findings relate to the consolidation, formalisation and/or alignment of documentation (for example, registers, compliance plans, etc.) to reduce potential confusion within the business and the completeness and accuracy of managing the Obligations.

We also found that the incident definition set out within the Licence Condition is not what is used in practice by the business. Rather, the business has adopted an inclusive approach whereby all identified technology, people and premises events are required to be recorded (across multiple registers), assessed and managed.

Materiality

Our threshold for determining if a factual finding generates a concern is where, in our independent professional judgement, should Pershing not appropriately address the finding it would unduly compromise the effectiveness of its ability to comply, and continue to comply with, its Obligations. Or, its non-inclusion in our Report would have an informed reader reasonably reach a different conclusion relative to if the matter had been disclosed.

1.5 Remedial Actions

The Licence Condition required us to identify what, if any, Remedial Actions are necessary to effectively address any concerns arising from the Licensee Review. In the absence of any concerns, per our materiality definition above, we have not defined any Remedial Actions.

We have however provided recommendations for the non-material factual findings. These recommendations relate to improving documentation to reflect current business practice, in

order to support and sustain these practices in the future. Pershing has accepted and commenced activities to address these recommendations.

We were also briefed on several Pershing and BNY Mellon initiatives that have recently been implemented (for example, moving to thematic compliance reviews) or currently in progress which, in our view, reflect common practices across the 3LoD.

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