



## **Information Memorandum**

### **Programme for the Issuance of Capital Notes**

Issuer

**Members Equity Bank Limited**  
(ABN 56 070 887 679)

Arranger

**Members Equity Bank Limited**

Dealer

**Members Equity Bank Limited**

14 November 2017

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## Important Notice

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### Introduction

This Information Memorandum relates to a debt issuance programme (“**Programme**”) established by Members Equity Bank Limited (ABN 56 070 887 679) (“**Issuer**” or “**ME**”) under which perpetual, non-cumulative, subordinated, unsecured notes (“**Capital Notes**” or “**Notes**”) may be issued from time to time up to the applicable Programme Limit (as defined in the section entitled “Summary of the Programme” below).

The Issuer is an authorised deposit-taking institution (“**ADI**”) which is authorised under the Banking Act 1959 (Cth) (“**Banking Act**”). The Capital Notes issued under this Information Memorandum are expected to constitute Additional Tier 1 Capital as described in the prudential standards issued by the Australian Prudential Regulation Authority (“**APRA**”) and applicable to the Issuer (“**Prudential Standards**”).

Capitalised expressions which are not otherwise defined in this Information Memorandum have the meanings given in clause 12.2 of the terms of the Capital Notes (“**Terms**”) which are set out in the section entitled “Terms of the Capital Notes” below.

**The Terms are complex and include features to comply with APRA’s requirements for instruments that constitute regulatory capital of the Issuer. They may not be suitable for all investors and any potential investor should consider the suitability of the investment in its own circumstances.**

The Capital Notes will not constitute deposits or protected accounts for the purposes of the Banking Act and are not obligations of any government and, in particular, are not guaranteed by the Commonwealth of Australia. Capital Notes that are offered for issue or sale or transferred in, or into, Australia are offered only in circumstances that would not require disclosure to investors under Parts 6D.2 or 7.9 of the Corporations Act 2001 (Cth) (“**Corporations Act**”).

### Issuer’s responsibility

This Information Memorandum has been prepared by, and issued with the authority of, the Issuer. The Issuer accepts responsibility for the information contained in this Information Memorandum, other than the information provided by the Arranger, the Dealer and the Registrar (each as described in the section entitled “Summary of the Programme” below) in relation to their respective contact details (if applicable) set out in the section entitled “Directory” below.

### Terms of issue

Capital Notes will be issued in series (each a “**Series**”). Each Series may comprise one or more tranches (each a “**Tranche**”) having one or more issue dates and on conditions that are otherwise identical (other than, to the extent relevant, in respect of the issue price and the date of the first payment of interest). Each Tranche will individually satisfy the relevant Prudential Standards.

This Information Memorandum summarises information regarding the issue of Capital Notes in uncertificated registered form in the wholesale debt capital markets in Australia. A pricing supplement and/or another supplement to this Information Memorandum (each a “**Pricing Supplement**”) will be issued for each Tranche of Capital Notes. A Pricing Supplement will contain details of the initial aggregate principal amount, issue price, issue date, maturity date, details of interest (if any) payable together with any other terms and conditions not set out in this Information Memorandum that may be applicable to that Tranche of Capital Notes. The Terms applicable to the Capital Notes may be supplemented, amended, modified or replaced by the Pricing Supplement applicable to those Capital Notes.

The Issuer may also publish a supplement to this Information Memorandum (or additional Information Memoranda) which describes the issue of Capital Notes (or particular types of Capital Notes) not otherwise described in this Information Memorandum. A Pricing Supplement may also supplement,

amend, modify or replace any statement or information set out in this Information Memorandum.

### **Documents incorporated by reference**

This Information Memorandum is to be read in conjunction with all documents which are deemed to be incorporated into it by reference as set out below. This Information Memorandum shall, unless otherwise expressly stated, be read and construed on the basis that such documents are so incorporated and form part of this Information Memorandum. References to “**Information Memorandum**” are to this Information Memorandum and any other document incorporated by reference and to any of them individually.

The following documents are incorporated in, and taken to form part of, this Information Memorandum:

- all amendments to this Information Memorandum prepared and issued by the Issuer from time to time;
- the latest Annual Review issued by the Issuer, which is available at the Issuer’s website at <https://www.mebank.com.au/>;
- the Issuer’s disclosures pursuant to APRA’s Prudential Standard APS 330 Public Disclosure, which are available at the Issuer’s website at <https://www.mebank.com.au/>; and
- each Pricing Supplement and all documents issued by the Issuer and expressly stated to be incorporated in this Information Memorandum by reference.

Any statement contained in this Information Memorandum or in any of the documents incorporated by reference in, and forming part of, this Information Memorandum, shall be modified or superseded for the purpose of this Information Memorandum to the extent that a statement contained in any document subsequently incorporated by reference modifies or supersedes such statement.

Except as provided above, no other information, including information on [www.mebank.com.au](http://www.mebank.com.au) or in any document incorporated by reference in any of the documents described above, is incorporated by reference into this Information Memorandum.

Copies of documents incorporated by reference in this Information Memorandum may be obtained from the Issuer and the Registrar (each as defined in the section entitled “Summary of the Programme” below) on request, including from their respective offices at the addresses set out in the section entitled “Directory” below, or from such other person specified in a Pricing Supplement.

Investors should review, amongst other things, the documents which are deemed to be incorporated by reference into this Information Memorandum when deciding whether or not to subscribe for, purchase or otherwise deal in any Capital Notes or any rights in respect of any Capital Notes.

### **No independent verification**

The only role of the Arranger and the Dealer in the preparation of this Information Memorandum has been to confirm to the Issuer that their respective details in the sections entitled “Summary of the Programme” and “Directory” below are accurate as at the Preparation Date (as defined below).

Apart from the foregoing, none of the Arranger or the Dealers, nor their respective related bodies corporate, has independently verified the information contained in this Information Memorandum.

Accordingly, no representation, warranty or undertaking, express or implied, is made, and no responsibility is accepted, by any of them as to the accuracy, completeness or currency of this Information Memorandum (except for confirming their respective contact details in the section entitled “Directory” below) or any further information supplied by the Issuer in connection with the Programme. Each of them expressly disclaims any duty to potential investors in respect of such matters.

The Arranger and the Dealers, and their respective related bodies corporate, expressly do not undertake to review the financial condition or affairs of the Issuer or any of its affiliates at any time or

to advise any holder of a Note of any information coming to their attention with respect to the Issuer. Neither the Arranger nor the Dealers, nor any of their related bodies corporate, make any representation as to the performance of the Issuer, its maintenance of capital or any particular rate of return on the Capital Notes, nor does the Arranger or the Dealers or any of their related bodies corporate guarantee the repayment of capital invested in the Capital Notes.

### **No offer**

This Information Memorandum does not, and is not intended to, constitute an offer or invitation by or on behalf of the Issuer, the Arranger or the Dealers to any person to subscribe for, purchase or otherwise deal in any Capital Notes. Nor is this Information Memorandum intended to be used for the purpose of offers or invitations to subscribe for, purchase or otherwise deal in any Capital Notes.

### **Restricted to certain professional and sophisticated investors**

Capital Notes may only be subscribed for, purchased by or otherwise dealt in by certain professional or sophisticated investors (see “Subscription and Sale” below). This Information Memorandum is not intended for and should not be distributed to any person other than such professional or sophisticated investors. Its contents may not be reproduced or used in whole or in part for any purpose other than in connection with the issue or sale of the Capital Notes in accordance with this Information Memorandum, nor furnished to any other person without the express written permission of the Issuer.

### **Selling restrictions and no disclosure**

Neither this Information Memorandum nor any other disclosure document (as defined in the Corporations Act) in relation to the Capital Notes has been, or will be, lodged with the Australian Securities and Investments Commission (“ASIC”) or any other government agency. The Information Memorandum is not a prospectus or other disclosure document for the purposes of the Corporations Act. No action has been taken which would permit an offering of the Capital Notes in circumstances that would require disclosure under Parts 6D.2 or 7.9 of the Corporations Act. The distribution and use of this Information Memorandum, including any Pricing Supplement, and advertisement or other offering material, and the offer or sale of Capital Notes, may be restricted by law in certain jurisdictions and intending purchasers and other investors should inform themselves about those laws and observe any such restrictions.

Persons into whose possession this Information Memorandum, any Pricing Supplement or any Capital Notes come must inform themselves about, and observe, any such restrictions.

See “Subscription and Sale” below for a description of certain restrictions on offers, sales and deliveries of the Capital Notes, and on distribution of this Information Memorandum, any Pricing Supplement or other offering material relating to the Capital Notes.

None of the Issuer, the Arranger or the Dealers represents that any Capital Notes may be lawfully offered for subscription or purchase or otherwise dealt with in compliance with any applicable registration or other requirements in any jurisdiction outside Australia, or pursuant to an exemption available thereunder, or assume any responsibility for facilitating any such offering or other dealing. In particular, no action has been taken by the Issuer, the Arranger or the Dealers which would permit a public offering of any Capital Notes in any jurisdiction where action for that purpose is required.

A person may not (directly or indirectly) offer for subscription or purchase, or issue an invitation to subscribe for or buy Capital Notes, nor distribute or publish this Information Memorandum or any other offering material or advertisement relating to the Capital Notes, except if the offer or invitation, or distribution or publication, complies with all applicable laws, regulations and directives.

### **No registration in the United States**

The Capital Notes have not been, nor will they be, registered under the U.S. Securities Act. The Capital Notes may not be offered, sold, delivered or transferred, at any time, within the United States, its territories or possessions or to, or for the account or benefit of, U.S. persons (as defined in

Regulation S under the U.S. Securities Act (“**Regulation S**”)) except in a transaction exempt from, or not subject to, the registration requirements of the U.S. Securities Act.

### **Intending purchasers to make independent investment decision and obtain tax advice**

This Information Memorandum contains only summary information concerning the Issuer and the Capital Notes. The information contained in this Information Memorandum is not intended to provide the basis of any credit or other evaluation in respect of the Issuer or any Capital Notes and should not be considered or relied upon as a recommendation or a statement of opinion, or a report of either of those things, by any of the Issuer, the Arranger or the Dealers, or their respective related bodies corporate, that any recipient of this Information Memorandum should subscribe for, purchase or otherwise deal in any Capital Notes or any rights in respect of any Capital Notes. Furthermore, this Information Memorandum contains only general information and does not take into account the objectives, financial situation or needs of any potential investor.

Each investor contemplating subscribing for, purchasing or otherwise dealing in any Capital Notes or any rights in respect of any Capital Notes should:

- make and rely upon (and will be taken to have made and relied upon) its own independent investigation of the terms and conditions of the Capital Notes and the rights and obligations attaching to the Capital Notes and of the financial condition and affairs, and its own appraisal of the creditworthiness, of the Issuer;
- determine for itself the relevance of the information contained in this Information Memorandum;
- consult its own tax advisers concerning the application of any tax laws applicable to its particular situation and consult other appropriate advisers in respect of any other matters upon which it requires advice; and
- base its investment decision solely upon its own independent assessment and such investigation and consultation with advisers and such other investigations as it considers appropriate or necessary.

No advice is given in respect of the legal or taxation treatment of investors or purchasers or any other matter in connection with an investment in any Capital Notes or rights in respect of them and each investor is advised to consult its own professional adviser.

### **No authorisation**

No person has been authorised to give any information or make any representations not contained in or consistent with this Information Memorandum in connection with the Issuer or the issue or sale of the Capital Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer, the Arranger or the Dealers.

### **Distribution arrangements**

The Issuer has agreed to pay the Dealers a fee in respect of the Capital Notes subscribed by it, and to reimburse and/or indemnify the Dealers for certain expenses incurred in connection with the offer and sale of Capital Notes and will reimburse and/or indemnify the Dealers against certain losses and liabilities in connection with the offer and sale of Capital Notes.

The Issuer, the Arranger and the Dealers, and their respective related bodies corporate, directors and employees may have pecuniary or other interests in the Capital Notes and may also have interests pursuant to other arrangements and may receive fees, brokerage and commissions and may act as a principal in dealings in the Capital Notes.

The distribution of this Information Memorandum and documents which are deemed to be incorporated by reference in this Information Memorandum and the offer or sale of Capital Notes may be restricted by law in certain jurisdictions. None of the Issuer, the Arranger or the Dealers, nor their

respective related bodies corporate, represents that this Information Memorandum or any such document may be lawfully distributed, or that any Capital Notes may be offered, in compliance with the laws of any applicable jurisdiction or other requirements in any such jurisdiction, or under an exemption available in that jurisdiction, or assume any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer, the Arranger or the Dealers nor their respective related bodies corporate, which would permit a public offering of any Capital Notes or distribution of this Information Memorandum or any such document in any jurisdiction where action for that purpose is required.

### **References to credit ratings**

There are references in this Information Memorandum to credit ratings. A credit rating is not a recommendation to buy, sell or hold the Capital Notes and may be subject to revision, variation, suspension or withdrawal at any time by the relevant assigning organisation. Each credit rating should be evaluated independently of any other credit rating.

***Credit ratings are for distribution only to a person (a) who is not a “retail client” within the meaning of section 761G of the Corporations Act and is also a sophisticated investor, professional investor or other investor in respect of whom disclosure is not required under Parts 6D.2 or 7.9 of the Corporations Act, and (b) who is otherwise permitted to receive credit ratings in accordance with applicable law in any jurisdiction in which the person may be located. Anyone who is not such a person is not entitled to receive this Information Memorandum and anyone who receives this Information Memorandum must not distribute it to any person who is not entitled to receive it.***

### **Currencies**

In this Information Memorandum references to “**A\$**” or “**Australian dollars**” are to the lawful currency of the Commonwealth of Australia.

### **Currency of information**

The information contained in this Information Memorandum is prepared as of its Preparation Date. Neither the delivery of this Information Memorandum nor any offer, issue or sale made in connection with this Information Memorandum at any time implies that the information contained in it is correct at any time subsequent to the Preparation Date or that any other information supplied in connection with the Programme is correct as of any time subsequent to the Preparation Date or that there has been no change (adverse or otherwise) in the financial condition, affairs or creditworthiness of the Issuer at any time subsequent to the Preparation Date.

In this Information Memorandum, “**Preparation Date**” means:

- in relation to this Information Memorandum, the date indicated on its face or, if the Information Memorandum has been amended or supplemented, the date indicated on the face of that amendment or supplement;
- in relation to financial reports incorporated by reference in this Information Memorandum, the date up to or as at the date on which such accounts relate; and
- in relation to any other item of information which is to be read in conjunction with this Information Memorandum, the date indicated on its face as being its date of release or effectiveness.

### **References to website addresses**

Any website addresses provided in this Information Memorandum are for reference only and the content of any such internet site is not incorporated by reference into, and does not form part of, this Information Memorandum (unless as expressly provided in this Information Memorandum).

## Summary of the Programme

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*The following is a brief summary only and should be read in conjunction with the rest of this Information Memorandum and, in relation to the Capital Notes, in conjunction with the Deed Poll (as defined below) and the Terms and the relevant Pricing Supplement. The Terms are set out on pages 26 to 54, as may be supplemented, amended, modified or replaced by the relevant Pricing Supplement. A term used below but not otherwise defined has the meaning given to it in clause 12.2 of the Terms. A reference to a "Pricing Supplement" does not limit the provisions or features of this Programme which may be supplemented, amended, modified or replaced by a Pricing Supplement in relation to a particular Tranche or Series of Notes.*

<b>Issuer:</b>	Members Equity Bank Limited (ABN 56 070 887 679)
<b>Programme description:</b>	A debt issuance programme under which, subject to applicable laws and directives, the Issuer may elect to issue perpetual, non-cumulative, subordinated, unsecured notes (" <b>Capital Notes</b> ") in the Australian domestic capital market in uncertificated registered form.
<b>Programme term:</b>	The term of the Programme continues until terminated by the Issuer giving notice to the Arranger and the Dealers then appointed to the Programme generally or earlier by agreement between all such persons.
<b>Arranger:</b>	Members Equity Bank Limited (ABN 56 070 887 679)
<b>Dealer:</b>	Members Equity Bank Limited (ABN 56 070 887 679) Additional Dealers may be appointed by the Issuer from time to time for a specific Tranche of Capital Notes or to the Programme generally.
<b>Registrar:</b>	Austraclear Services Limited (ABN 28 003 284 419) and any other persons appointed by the Issuer to maintain the Register from time to time (" <b>Registrar</b> "). Details of additional appointments in respect of a Tranche or Series will be notified in the relevant Pricing Supplement.
<b>Form of Capital Notes:</b>	Capital Notes may be issued in the form of Fixed Rate Notes or Floating Rate Notes.  Capital Notes will take the form of entries in a register maintained by the Registrar. No certificate or other evidence of title will be issued unless the Issuer determines that certificates should be available or it is required to do so pursuant to applicable law or directives.  The Terms of the Notes are set out in this Information Memorandum and will be supplemented, amended, modified or replaced as specified in the applicable Pricing Supplement for the relevant Tranche.
<b>Deed Poll:</b>	Holders of Capital Notes will have the benefit of the Members Equity Bank Capital Notes Deed Poll executed by the Issuer on 14 November 2017 (" <b>Deed Poll</b> ") in relation to the Capital Notes held by them.
<b>Title:</b>	Entry of the name of a person in the Register in respect of any Capital Note constitutes the obtaining or passing of title and is conclusive evidence that the person whose name is so entered is the registered owner of such Note.
<b>Term of Capital Notes:</b>	Capital Notes are perpetual (i.e. they have no fixed maturity date, subject to Redemption or Write-off – see "Write-off following Non-Viability Trigger Event" and "Redemption" below).
<b>Status and Ranking of the</b>	Capital Notes are non-cumulative and fully paid and are issued by the Issuer on a subordinated basis. They are not guaranteed or secured.



**Capital Notes:**

In a winding-up of the Issuer, if Capital Notes have not been Written-off on account of a Non-Viability Trigger Event, Capital Notes will rank for payment:

- (a) ahead of Members Equity Bank Shares;
- (b) equally without any preference among themselves and with the holders of Equal Ranking Instruments; and
- (c) behind the claims of all Senior Creditors of the Issuer.

However, Holders should be aware that if the Issuer is in a winding-up, it is likely that a Non-Viability Trigger Event will have occurred. On the occurrence of a Non-Viability Trigger Event, Capital Notes will be Written-off (see "Write-off following Non-Viability Trigger Event" below).

As at the date of this Information Memorandum, there are no Equal Ranking Instruments on issue.

Holders should refer to clauses 3 and 10 of the Terms which provide for the ranking and subordination of the Capital Notes.

**Distributions:**

Distributions which are payable will be paid in arrears on each Distribution Payment Date. The Distribution Payment Dates and the applicable Distribution Rate will be specified in the Pricing Supplement applicable to the relevant Series of Capital Notes.

If the Pricing Supplement states that the Capital Notes are Fixed Rate Notes, the amount of Distribution payable on each Distribution Payment Date in respect of the preceding Distribution Period in respect of each Capital Note is the Fixed Coupon Amount specified in the Pricing Supplement or, if a Fixed Coupon Amount is not specified, the amount calculated according to the following formula:

**Distribution = Distribution Rate x Face Value x Day Count Fraction**

If the Pricing Supplement states that the Capital Notes are Floating Rate Notes, the Distribution for each Distribution Period will be calculated as follows:

**Distribution = Distribution Rate x Face Value x N / 365** (where "N" means the number of days in the Distribution Period),

where the Distribution Rate (expressed as a percentage per annum) is to be calculated according to the following formula:

**Distribution Rate = (BBSW Rate + Margin) x (1 – Tax Rate)**

The Margin will be specified in the relevant Pricing Supplement.

Payment of Distributions is in the absolute discretion of the Issuer and subject to no Payment Condition existing as at the Distribution Payment Date. The Payment Conditions are:

- (a) payment of the Distribution would result in the Issuer breaching APRA's capital adequacy requirements applicable to it;
- (b) the payment would result in the Issuer becoming, or being likely to become, insolvent for the purposes of the Corporations Act; or
- (c) APRA objecting to the payment.

If a Distribution is not paid in full on a Distribution Payment Date, the Issuer must not without the approval of Holders by a Special Resolution declare, determine to pay or pay a Dividend, or undertake any Buy Back or Capital Reduction, until and including the next Distribution Payment Date (unless the relevant Distribution is paid in full within 5 Business Days of the relevant Distribution Payment Date). There are certain exclusions from this restriction which are set out in clause 4.11 of the Terms.

Distributions are non-cumulative, which means that if a Distribution is not paid on a particular Distribution Payment Date, the Issuer has no obligation to pay it on a future Distribution Payment Date.

The Issuer will notify Holders of the Distribution Rate (and the expected Distribution payable) during the Distribution Period once it has determined what the Franking Rate will be. Such notice will be given no later than the Record Date for that Distribution Period. Holders should be aware that the level of franking may vary over time and Distributions may be partially or fully franked or not franked at all.

**Franking:**

Distributions are expected to be franked to 100%. The rate of franking depends on the Issuer's level of available franking credits. The level of franking may vary over time and Distributions may be partially or fully franked or not franked at all.

The greater the rate of franking of the Distribution, the lower the amount of cash Distribution, reflecting the value of the franking credit attached to the Distribution.

If Distributions are franked, the ability of Holders to use the franking credits will depend on their individual circumstances.

If Distributions are partially franked, dividend withholding tax at the rate of 30% may be applied. Dividend withholding tax should generally not apply to the extent that:

- the Holder is an Australian resident or a non-resident who derives the Distribution in carrying on a business at or through a permanent establishment in Australia,
- the Distribution is franked; or
- the amount of the unfranked part of the Distribution is declared by the Issuer to be conduit foreign income.

The dividend withholding tax rate may also be reduced under an applicable double tax treaty.

If any dividend withholding tax is applicable, the Issuer will not increase the amount of the Distribution to account for that withholding.

For further information, see the section entitled "Australian Taxation" below.

**Write-off following Non-Viability Trigger Event:**

Capital Notes must be Written-off if a Non-Viability Trigger Event occurs. A Non-Viability Trigger Event means the earlier of:

- (a) the issuance of a notice in writing by APRA to the Issuer that the conversion or write-off of Relevant Securities is necessary because without that conversion or write-off APRA considers that the Issuer would become non-viable; or
- (b) a determination by APRA notified to the Issuer that without a public sector injection of capital (or equivalent support), the Issuer would become non-viable.

If a Non-Viability Trigger Event occurs, the Issuer must convert to Members Equity Bank Shares or write-off some or all Relevant Securities (including the Capital Notes). Where the Capital Notes are Written-off, all rights of Holders will be terminated with effect on and from the date of the Non-Viability Trigger Event.

APRA has not given any guidance as to how it would determine non-viability and has indicated that it will not publish further guidance on the parameters used to determine non-viability. As at the date of this Information Memorandum, APRA has not made a determination of non-viability. Non-viability could be expected to include serious impairment of the Issuer's

financial position and solvency, but may not be confined to solvency measures and capital ratios and may include other matters, such as liquidity.

<b>Issuance in Series:</b>	Capital Notes will be issued in Series. Each Series may comprise one or more Tranches having one or more issue dates and on conditions that are otherwise identical (other than, to the extent relevant, in respect of the issue price and the date of the first payment of interest). The Capital Notes of each Tranche of a Series are intended to be fungible with the other Tranches of Capital Notes of that Series. Each Tranche will individually satisfy the relevant Prudential Standards.
<b>Currencies:</b>	Subject to applicable law and directive, Capital Notes will be denominated in Australian dollars.
<b>Issue Price:</b>	Capital Notes may be issued at any price on a fully paid basis, as specified in the relevant Pricing Supplement.
<b>Denominations:</b>	Subject to all applicable laws and directives, Capital Notes will be issued in such denominations as may be specified in the relevant Pricing Supplement.
<b>Redemption of Capital Notes:</b>	<p>The Issuer has the right (but not an obligation) to Redeem the Capital Notes as more fully set out in the Terms and the relevant Pricing Supplement. Unless a Tax Event or a Regulatory Event occurs (see below), the Issuer will only have a right to Redeem the Capital Notes on or after the fifth anniversary of the date of issue of the Capital Notes.</p> <p>The Issuer may also elect to Redeem all or some Capital Notes following the occurrence of a Tax Event or a Regulatory Event. The Capital Notes may not be Redeemed on the occurrence of a Non-Viability Trigger Event.</p> <p>The Issuer may only Redeem the Capital Notes if it has received APRA's prior written approval (which may or may not be given). APRA must be satisfied that, before or concurrently with Redemption:</p> <ul style="list-style-type: none"><li>(a) the Capital Notes will be replaced with a capital instrument which is of the same or better quality (for the purposes of the Prudential Standards) than the Capital Notes, and the replacement must be done under conditions that are sustainable for the Issuer's income capacity; or</li><li>(b) having regard to the projected capital position of the Issuer and the ME Group, the Issuer does not have to replace the Capital Notes.</li></ul>
<b>Regulatory treatment of Capital Notes:</b>	<p>The Capital Notes are expected to constitute Additional Tier 1 Capital of the Issuer.</p> <p>The Issuer may elect to Redeem the Capital Notes if a Regulatory Event occurs. See "Tax and Regulatory Events" below.</p>
<b>Tax and Regulatory Events:</b>	<p><b>Tax Event</b> (as defined in the Terms) means broadly that the Directors receive an opinion that, as a result of a change in law or regulation in Australia on or after the Issue Date affecting taxation (which the Issuer did not expect on the Issue Date), there is more than an insubstantial risk which the Directors determine to be unacceptable that any Distribution would not be frankable or that the Issuer would be exposed to more than de minimis adverse tax consequence in relation to the Capital Notes.</p> <p><b>Regulatory Event</b> (as defined in the Terms) means broadly that:</p> <ul style="list-style-type: none"><li>(a) the Directors receive an opinion that, as a result of a change in Australian law or regulation or any requirement of APRA on or after the Issue Date (which the Issuer did not expect on the Issue Date) ("<b>Regulatory Change</b>"), additional requirements would be imposed on</li></ul>

the Issuer in connection with Capital Notes, which the Directors determine to be unacceptable; or

- (b) the Directors determine that, as a result of a Regulatory Change, the Issuer is not or will not be entitled to treat all Capital Notes as Additional Tier 1 Capital.

**No set-off in relation to Capital Notes:**

The Issuer is not entitled to set-off any amounts, merge accounts or exercise any other rights the effect of which is or may be to reduce any amount payable by the Issuer in respect of the Capital Notes held by a Holder. Holders are also not entitled to set-off amounts owing to the Issuer in respect of the Capital Notes.

**Amendments to the Terms:**

The Issuer may amend the Terms or the Deed Poll without the consent of Holders if the amendment is:

- (a) of a formal, technical or minor nature;
- (b) made to correct any manifest error;
- (c) made to cure any ambiguity or correct or supplement any defective or inconsistent provision and, in the reasonable opinion of the Issuer, is not materially prejudicial to the interests of the Holders;
- (d) necessary or expedient for the purpose of enabling the Capital Notes to be offered for subscription or for sale under the laws for the time being in force in any place;
- (e) necessary to comply with the provisions of any statute or the requirements of any statutory authority;
- (f) made to (i) amend the terms of any Capital Notes to align them with any Relevant Securities issued after the date of such Capital Notes, or (ii) amend the definition of "Relevant Security" on account of the issue (after the date of any Capital Notes) of capital instruments of the ME Group; or
- (g) in any other case, not materially prejudicial to the interests of the Holders as a whole.

In the case of an amendment pursuant to paragraph (d), (e) or (f), the Issuer must have received an opinion of independent legal advisers of recognised standing in Victoria that such amendment is otherwise not materially prejudicial to the interests of Holders as a whole.

Any other amendments require the approval of Holders by Special Resolution in accordance with the Meeting Provisions, and the Meeting Provisions also provide for the taking of certain other actions binding on all Holders by Special Resolution. Actions not requiring a Special Resolution (except those mentioned in paragraphs (a) to (g) above) may be approved by Holder Resolution.

The quorum requirement for a meeting is two Holders or proxy present only if they alone or together hold (or in the case of proxies appointed under a notice in writing in the form available from the Registrar, represent Holders who hold) Capital Notes which represent at least 25% of the aggregate Face Value of the Capital Notes outstanding when the meeting begins. A Special Resolution is one passed by at least 75% of persons voting on a show of hands or, if a poll is demanded, by a majority consisting of at least 75% of the votes cast. A Special Resolution may be passed by postal ballot or written resolution under the Meeting Provisions by Holders representing at least 75% of the aggregate Face Value of the outstanding Capital Notes. The same provisions as the foregoing apply to a Holder Resolution, except that the required proportion is 50%.

At least 10 Business Days' notice (or 15 Business Days' notice in the case of a Special Resolution) of a meeting must be given to Holders.

Holders should refer to Schedule 2 to the Deed Poll.

Any amendment which may affect the eligibility of the Capital Notes for inclusion as Additional Tier 1 Capital of the Issuer is subject to the prior written consent of APRA.

**Austraclear:** Capital Notes may be transacted through the Austraclear System. Capital Notes which are held in the Austraclear System will be registered in the name of Austraclear Ltd. Payments through the Austraclear System may only be made in Australian dollars.

Interests in Capital Notes traded in the Austraclear System may be held in Euroclear and/or Clearstream. In these circumstances, entitlements in respect of holdings of interests in Capital Notes in Euroclear would be held in the Austraclear System by a nominee of Euroclear (currently HSBC Custody Nominees (Australia) Limited), while entitlements in respect of holdings of interests in Capital Notes in Clearstream would be held in the Austraclear System by a nominee of J.P. Morgan Chase Bank, N.A. as custodian for Clearstream.

The Issuer will not be responsible for the operation of the clearing arrangements which is a matter for the clearing institutions, their nominees, their participants and the investors.

**Governing law:** The Capital Notes and all related documentation will be governed by the laws of Victoria, Australia.

**Use of proceeds:** The Issuer expects to use the net proceeds of the issue of the Capital Notes for general corporate purposes.

**Selling Restrictions:** The offering, sale and delivery of Capital Notes are subject to the rules, restrictions and operating procedures which may apply in connection with the offering and sale of the Capital Notes. See also "Subscription and Sale" below.

Restrictions on the offer, sale and/or distribution of Capital Notes may also be set out in the relevant Pricing Supplement.

**Transfer:** Capital Notes may only be transferred in whole but not in part.

Where Capital Notes are not lodged in the Austraclear System, subject to the transfer restriction described below, all applications to transfer Capital Notes must be made by lodging with the Registrar a properly completed transfer and acceptance form in the form approved by the Issuer and the Registrar signed by both the transferor and the transferee. Transfer and acceptance forms are available from any Registry Office.

Capital Notes which are lodged in the Austraclear System will be transferable only in accordance with the Austraclear Regulations.

Unless otherwise specified in an applicable Pricing Supplement, Capital Notes may only be transferred:

- (a) within, to or from Australia, if:
  - (i) the aggregate consideration payable at the time of transfer is at least A\$500,000 (disregarding moneys lent by the transferor or its associates) or the transfer otherwise does not require disclosure to investors in accordance with Part

6D.2 or Part 7 of the Corporations Act; and

(ii) the transfer does not constitute an offer to a “retail client” as defined for the purposes of section 761G of the Corporations Act; or

(b) between persons in a jurisdiction or jurisdictions other than Australia if the transfer is in compliance with the laws of the jurisdiction in which the transfer takes place and the transfer of the Capital Notes otherwise does not require disclosure to investors in accordance with the laws of the jurisdiction in which the transfer takes place.

Capital Notes will not be transferable on the Register so long as Austraclear Services Limited is the Registrar and Capital Notes are lodged in the Austraclear System, except:

- for the purposes of any Write-off, Redemption, repurchase or cancellation of the relevant Capital Note, a transfer of the relevant Capital Note from Austraclear to the Issuer may be entered in the Register; and
- if Austraclear exercises or purports to exercise any power it may have under the Austraclear Regulations from time to time for the Austraclear System or the Terms, to require the relevant Capital Note to be transferred on the Register to a member of the Austraclear System, the relevant Capital Note may be transferred on the Register from Austraclear to the member of the Austraclear System.

In any of these cases, the relevant Capital Note will cease to be held in the Austraclear System.

Restrictions on the transfer of Capital Notes may also be set out in the relevant Pricing Supplement.

**Taxes:** A general description of the Australian taxation consequences of investing in the Capital Notes is set out in the section entitled “Australian Taxation” below. However, investors should obtain their own taxation advice regarding the taxation status of investing in Capital Notes.

**Stamp duty:** Any stamp duty incurred at the time of issue of the Capital Notes will be for the account of the Issuer. Any stamp duty incurred on a transfer of Capital Notes will be for the account of the relevant investors. As at the date of this Information Memorandum, no Australian stamp duty should be payable on the issue of the Capital Notes or any transfer of Capital Notes provided that following the issue or transfer of Capital Notes, no Holder will, either alone or together with any associated persons, be entitled to a distribution of 50% or more of the property of the Issuer on a notional distribution of all the property of the Issuer.

**Withholding tax:** If a law requires the Issuer to withhold or deduct an amount in respect of Taxes from a payment in respect of the Capital Notes, the Issuer will deduct the amount for the Taxes. The Issuer is not required to pay any additional amounts to Holders in these circumstances. See the section entitled “Australian Taxation” below.

**Listing:** It is not currently intended that Capital Notes will be listed on any stock exchange.

The applicable Pricing Supplement in respect of the issue of any Tranche of Notes will specify whether or not such Notes will be quoted on any stock exchange.

**Ratings:**

Capital Notes to be issued under the Programme may be rated. Any rating will be set out in the applicable Pricing Supplement.

The Issuer is rated BBB by Standard & Poor's and Baa1 by Moody's.

A credit rating is not a recommendation to buy, sell or hold the Capital Notes and may be subject to revision, variation, suspension or withdrawal at any time by the relevant assigning organisation. Each credit rating should be evaluated independently of any other credit rating.

***Credit ratings are for distribution only to a person (a) who is not a "retail client" within the meaning of section 761G of the Corporations Act and is also a sophisticated investor, professional investor or other investor in respect of whom disclosure is not required under Parts 6D.2 or 7.9 of the Corporations Act, and (b) who is otherwise permitted to receive credit ratings in accordance with applicable law in any jurisdiction in which the person may be located. Anyone who is not such a person is not entitled to receive this Information Memorandum and anyone who receives this Information Memorandum must not distribute it to any person who is not entitled to receive it.***

# About Members Equity Bank

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## 1 About ME

Members Equity Bank Limited (“ME” or the “Bank”) is an unlisted public company owned by a number of industry superannuation funds, including some of the biggest in Australia. It is headquartered in Melbourne with offices in every Australian capital city.

ME was established in 1994, under the masthead Super Members Home Loans, to help everyday Australians into their own home. ME obtained its banking licence in 2001 and continues to be regulated by APRA and ASIC. It holds an Australian Financial Services Licence (AFSL Number 229500) and an Australian Credit Licence (Australian Credit Licence Number 229500).

ME’s purpose is to help all Australians get ahead by enabling them to achieve their personal best and rail against financial anxiety. ME’s customer focus is on not only creating pathways to home ownership, but also on designing frictionless banking experiences that deliver on ME’s customer promises. ME also leverages the power of the industry superannuation fund and affiliated union network for mutual benefit.

## 2 ME’s products and services

ME’s focus is on providing retail banking products to help Australians transact, save and borrow. ME is committed to providing products that enable people to meet their financial goals, including achieving their dream of owning a home. These products and services include:

### Personal banking products:

- Home and investment property loans
- Credit cards
- Personal loans
- Transaction accounts
- Cash management accounts
- Online savings accounts
- Term deposits

### Business products:

- Term deposits
- Business online savings accounts

### Wholesale products:

- 11am accounts
- Cash notice accounts
- Electronic certificates of deposit
- Medium-term notes
- Securitisation
- Subordinated debt
- Super Cash Management Accounts

### Servicing customers:

- Australian-based national customer contact centre
- Internet banking
- Mobile app
- Mobile banking managers
- Direct (over the phone) sales team



- Broker network.

ME distributes these products through a variety of channels designed to meet the needs of customers and investors. Retail customers can apply for products online, over the phone and face-to-face. The Bank has Mobile Banking Managers in every state who specialise in home loans and visit customers at a time and place convenient to the customer. ME also distributes its home loans through a national network of mortgage brokers and aggregators. In addition, ME has established a Member Benefits Program, which it distributes through the industry superannuation funds' and affiliated unions' networks of employers and members.

### **3 ME's organisation**

ME is intent on building an employer brand that attracts the strongest talent, and delivers an entrepreneurial "free thinking" culture that challenges and improves on all the Bank does for the benefit of the customer.

ME has one wholly-owned subsidiary, ME Portfolio Management Limited, which acts as the manager of a number of ME's securitisation trusts and debt programs.

Details of the Bank's Board members and executive team are available on the Bank's website.

### **4 Financial Performance**

A summary of the key aspects of ME's financial performance is contained in the Annual Review, published on the ME website <https://www.mebank.com.au/> and incorporated by reference into this Information Memorandum.

### **5 Capital Adequacy**

APRA requires ME to hold a certain level of regulatory capital against its risk-weighted assets in order for such capital to absorb losses which may be incurred from time to time. ME publishes (on its website [www.mebank.com.au](http://www.mebank.com.au)) relevant capital reporting as required by APRA Prudential Standard APS 330 – Prudential Disclosures.

### **6 Funding**

Since the global financial crisis, ME has transitioned to a balance sheet funding model with the progressive transfer of off-balance sheet business to the balance sheet. As part of this process, ME has focused on achieving a more diversified funding mix – across a mixture of wholesale funding, customer funding from deposits, and securitisation – to reduce the risk of over-reliance on any one funding source.

ME raises funding from a variety of sources, with a focus on "aligned customers" in both retail and wholesale segments. The Bank has, over the last five years, increased wholesale and retail deposits with less reliance on securitisation.

Long-term and short-term wholesale debt is raised domestically and overseas. ME proactively manages the amount, tenor and mix of its funding to ensure sufficient funding for its current business activities and to manage future growth while meeting its regulatory obligations. Wholesale debt maturities are also managed to ensure that liabilities can be repaid or refinanced when they fall due.

### **7 Liquidity**

ME ensures that it has sufficient cash and other marketable securities (known as liquid assets) to ensure that it is able to repay its liabilities, including repaying deposits, when they fall due.

Under APRA's prudential standards, ME operates under the Liquidity Coverage Ratio (LCR)

regime as of 1 January 2017 and maintains a liquid assets portfolio that meets those requirements. While ME is not (at the date of this Information Memorandum) subject to the application of APRA's Net Stable Funding Ratio (NSFR), it is planning its transition to that regulatory regime.

## Risks

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Investors must take or obtain their own advice with respect to investment and other risks.

*This Information Memorandum describes only some of the risks of investing in the Capital Notes. It does not describe all the risks of an investment in the Capital Notes. If prospective investors are in any doubt about the risks associated with an investment in the Capital Notes, they should consult their own professional, financial, legal and tax advisers about such risks and the suitability of investing in the Capital Notes in light of their particular circumstances.*

### Risks associated with the Issuer

#### Macroeconomic, political and regulatory risks

ME's performance may be subject to changes in economic conditions in Australia (and globally), and any governmental or regulatory response to those changing conditions. The changes in economic conditions could include:

- changes in economic growth, unemployment levels and consumer confidence which may lead to a decline in the demand for ME's products and services and the quality of ME's existing portfolio of loans;
- changes in fiscal and monetary policy, including inflation and interest rates, which may impact ME's profitability or cause a decline in the demand for ME's products and services;
- declines in aggregate investment and economic output in Australia or in key offshore regions;
- national or international political and economic instability or the instability of national or international financial markets; and
- changes in residential real estate values.

Although ME will have in place a number of strategies to minimise the exposure to economic risk and will engage in prudent management practices to minimise its exposure in the future, these factors may nonetheless have an adverse impact on ME's financial performance and position. As part of these strategies ME will undertake regular stress testing of its portfolios, but this testing might not anticipate the exact circumstances of the change in the various factors which have an impact on the economy, or on ME.

The financial services industry, and banking in particular, is currently the subject of increased public scrutiny and government and regulatory oversight, including the potential risk of a Royal Commission into banking. The 2017 Budget outlined a number of changes to the supervision of the banking industry, including the provision of additional powers to APRA as part of its prudential supervisory responsibilities. This is an area which continues to be the subject of significant public discussion and media coverage.

ME is subject to a broad range of regulatory and legal oversight, including by, among others, APRA, the Reserve Bank of Australia, the Australian Competition and Consumer Commission, ASIC and AUSTRAC. These regulators (with others) are responsible for a broad range of laws, prudential requirements, regulations, policies and other standards, the change in, or implementation or interpretation of, which could affect ME either directly or indirectly in substantial and unpredictable ways.

There is a risk that ME may not respond sufficiently quickly and effectively to regulatory changes, which could have a material adverse impact on ME's financial position, performance and reputation.

### Strategic

#### Competitive environment

ME reviews its strategy at least annually, or more regularly if circumstances require. The products and services offered by ME are homogenous with those products offered by its competitors. ME faces the additional risk of not being able to respond, or not responding sufficiently quickly, to changing customer sentiment, preferences and habits, and may lose customers as a result.

While ME will seek to optimise its advantages, it continues to face the risks associated with operating

in a highly regulated and highly competitive industry, where the four major banks hold significant market share and market power.

The risk of disruption in financial services, and banking in particular, is also a factor for ME, including through new entrants, distribution models and collaboration across borders and industries through the application of technology.

ME uses mortgage brokers – through a number of the major aggregator businesses - to distribute its home loan products to customers, and while not dependent on any individual aggregator business there remains a risk of the failure, inability or unwillingness of brokers to distribute ME's home loan products due to a range of factors.

### **Shareholders**

ME is an unlisted public company, owned by a number of industry superannuation funds (“ISFs”) in differing proportions. ME's Constitution provides that it may only issue shares to Eligible Investors, which (in summary) are complying superannuation funds under the *Superannuation Industry (Supervision) Act 1993* (Cth). The market for ME shares is therefore restricted, and could be considered illiquid.

Given the superannuation industry is also subject to ongoing regulatory supervision and change there is a risk that the shareholders may no longer be allowed to hold their ME shares, or there may be other regulatory obligations in relation to the shareholding which are not met. In addition the shareholders' investment strategies may change causing them to sell their shares in ME.

### **Mergers and acquisitions**

ME may engage in merger, acquisition or divestment activity to support its strategic direction, any of which could impact ME's risk profile, and business position. While any such activity would involve appropriate planning and close Board and management attention there will be a risk that the anticipated benefits of the activity are not obtained, or not obtained within the period anticipated.

### **Credit**

This is the risk that customers or counterparties will not be able to meet their financial obligations as they fall due, including their obligations to ME to repay loans and interest, and ME will suffer a financial loss.

Credit risk is a significant risk for ME. As a home lending organisation, ME has a substantial exposure to residential mortgage lending, with only a small portion of its lending assets in credit cards and personal loans. While ME's home loans are secured by mortgages, its credit cards and personal loans are unsecured. A failure in its borrowers to repay these loans may have a material adverse impact on ME's financial performance and position.

ME does not have any exposure to commercial credit risk as it sold its commercial lending and asset financing assets in late 2016.

ME has put in place a series of policies and assessment processes and tests to satisfy itself as to the ability of its borrowers to repay their loans, at origination and over the term of the loan, but circumstances can change – including at a macroeconomic level – which will cause stress on borrowers and affect their ability to repay. Accordingly ME has put in place collective and individually assessed provisions for its credit exposures. If economic conditions deteriorate, and customers and/or counterparties experience higher levels of financial stress ME may experience an increase in defaults and write offs and be required to increase its provisioning. Deterioration in economic conditions, inadequate provisioning or a significant breakdown in credit lending disciplines could diminish available capital and could adversely affect ME's business, financial performance, liquidity, capital resources, financial condition and prospects.

### ***Concentration risk***

The Bank is primarily a home loan provider, with over 95% of its lending assets in home loans (as at 31 May 2017). Accordingly any change in the stability of house prices, or a decrease in house prices more generally, will have a larger impact on the Bank's credit risk profile than on the credit risk profile of other lenders with a broader asset base.

The Bank applies a number of controls over its home lending to manage the risk exposures in its portfolio such as geographic risk (where its borrowers are located), product risk (the type of home loan products being sold), and the amount lent to its customers against the value of the property.

### **Balance sheet**

#### ***Market***

ME's exposure to market risk relates to the asset and liability management of its balance sheet.

ME may suffer losses arising from adverse movements in levels and volatility of market factors, including interest rates, foreign exchange rates, equity prices and credit spreads. If ME were to suffer substantial losses due to any market volatility, it could adversely affect ME's financial performance, liquidity, capital resources, financial condition and prospects.

#### ***Funding and Liquidity***

Funding risk relates to the risk of one or more of ME's funding sources being reduced or no longer available to ME, or there is a significant increase in ME's cost of funding through either a systemic or company specific event. ME meets this risk by diversifying its funding base, reducing reliance on a single source of funding, such as securitisation. While ME manages this risk through diversification and pricing, if ME's funding costs become so expensive as to be uncompetitive, ME can curtail its other business activities to reduce lending growth.

Liquidity risk is the risk that ME cannot meet its financial (or payment) obligations as they fall due, which may arise for a number of reasons, such as a result of a mismatch between the payment obligations and ME's access to liquid assets, adequate funding on acceptable terms, or cash flows from its business. ME manages this risk through the application of relevant policies with clear triggers and limits on the level of liquidity the Bank must hold in different categories, including in high quality liquid assets, and over different timeframes, and in different market conditions.

#### ***Capital***

ME manages its capital to meet a number of key metrics, including the limits imposed by APRA.

ME raises Common Equity Tier 1 capital in the form of ordinary shares ("Voting Shares" as defined in its Constitution) from its shareholders, but as noted above may only issue Voting Shares in ME to "Eligible Investors".

In addition, ME is limited by a number of factors in relation to the alternative forms of capital it might raise to support its growth.

Capital distribution constraints will apply if ME's Common Equity Tier 1 Capital ratio is within the "capital buffer range" (consisting of the "capital conservation buffer" plus any "countercyclical capital buffer", each of which are set by APRA). APRA has published a table (in Attachment B to APS 110) indicating the percentage of earnings that an ADI (such as ME) is unable to distribute where its Common Equity Tier 1 Capital ratio falls within certain quartiles. Where the Common Equity Tier 1 Capital ratio of ME falls within the first quartile of buffer as specified in the table, ME must also cease all Tier 1 Capital distributions. This would include distributions to be paid on the Capital Notes.

#### ***Operational risk***

Operational risk is the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. ME is exposed to a variety of operational risks associated with

people, systems and processes, such as workplace safety, project and change management, compliance, business continuity and crisis management, key person dependencies, internal and external fraud and other dishonest activities, information and systems resilience as well as reliance on partners, suppliers and outsourcing. Even though ME has adopted policies and procedures to control exposure to, and limit the extent of, these risks, there are inherent limitations in any risk management control system and control breakdowns can occur.

#### ***Law, Regulation and government policy – failure by ME to comply***

ME's failure to meet its legal and regulatory obligations may have a material adverse effect on ME's reputation among customers and in the market, and on its relationship with the regulators. It may also result in significant remediation costs to ME. ME has in place a range of measures, including a compliance framework, policies and procedures to manage the risk of non-compliance.

#### ***Accounting practices***

ME exercises judgment in determining the accounting policies and methods it applies to appropriately recording and reporting on its financial position and the results of its operations. However, these accounting policies may be applied inaccurately, resulting in a misstatement of financial position and results of operations. Sometimes this requires a decision between two or more acceptable accounting policies or methods, each of which is appropriate but might result in reporting materially different outcomes than would have been reported using a different policy or method.

ME may change its accounting policies and methods from time to time as accounting standards and regulations change.

#### ***Tax laws***

Australian taxation laws are frequently changing, or are subject to differing interpretations, with these changes potentially giving rise to risks to ME in relation to the manner in which it undertakes its taxation assessments.

There are risks that any changes in tax laws, including in relation to company income tax, may have an impact on ME's financial position including its net profit after tax, and its dividend franking position.

#### ***Program of work***

ME is committed to investing in its organisation through an annual program of work, which will involve a number of projects across the organisation executed under the guidance of its Project Management Office. There is a risk that these projects might not be effectively or efficiently planned or executed, or the costs of the projects might exceed reasonable expectations or tolerances, or the projects may be delayed, the projects might affect IT systems in an unplanned manner causing disruption, or the organisation might not be able to consume the volume of change generated by the projects, causing a disruption in ME's service to its customers, or a deterioration in ME's financial performance.

#### ***Change in credit ratings***

ME's credit rating as assigned by a rating agency is based on an evaluation of a number of factors by that agency (with those factors differing between the agencies), including ME's financial strength.

A credit rating downgrade could be driven by the occurrence of one or more of the other risks discussed in this Information Memorandum or by other events, including changes in the macroeconomic environment. A downgrade in ME's current corporate credit rating could have an adverse effect on ME's cost of funds and related margins, liquidity, competitive position and access to capital markets.

While these Capital Notes will not be rated, any changes in ME's credit rating could adversely affect the market price, liquidity and performance of the Capital Notes. ME's corporate credit rating is not a rating of the Capital Notes.

### ***Disputes, litigation and regulatory proceedings***

From time to time, ME may be involved in disputes or be party to claims, proceedings and litigation, including those it brings itself or where it is the subject of the claims. There is a risk that any material or costly dispute or litigation could adversely affect the value of ME's assets or its future financial performance. ME may also be subject to proceedings brought by regulatory bodies, including ACCC, ASIC or AUSTRAC, in relation to its practices or regulatory compliance. ME has in place risk and compliance frameworks, policies and procedures to manage the risk of non-compliance and minimise the risk of any ensuing disputes.

ME is not currently involved in any proceedings, or subject to any claims, which it believes will result in a material adverse effect on ME, its operations, or its financial position.

### ***Technology and data risk***

Technology is fundamental to ME's delivery of its services and products to its customers, and is constantly changing. For ME to compete effectively in the future it needs to continue its investment in its technology and product platforms to support the efficient delivery of its products and services. There is a risk that these platforms, or other technology services and infrastructure which ME uses to deliver products and services, might fail or not operate as expected.

Most of the ME's daily operations are computer-based and information technology (IT) systems are essential to maintaining effective communications with customers. The exposure to systems risks includes the complete or partial failure of IT systems or data centre infrastructure, the inadequacy of internal and third-party IT systems due to, among other things, failure to keep pace with industry developments, and the capacity of the existing systems to effectively accommodate growth and integrate existing and future acquisitions and alliances.

Maintaining secure access to properly collected and well managed data is fundamental to allow ME to not only meet its privacy and reporting obligations, but to be able to deliver its strategy, fulfil its customer promises and grow its business. Poor data governance, including in respect of the manner in which data is transferred within ME, could lead to loss or corruption of data, incorrect reporting, incorrect record retention, or breach of its obligations including under the Payment Card Industry Data Security Standard.

ME has a dedicated technology department to manage these risks, operating under an overarching IT strategy and operating model which provide for the organisational structure, key services, and governance model. Focus areas are IT security, IT risk management, disaster recovery, service management, change management, IT architecture and strategy, and IT delivery teams. Notwithstanding the focus ME puts on managing its IT systems and services, a failure of these systems or services could result in business interruption, loss of customers, financial compensation, and/or a weakening of ME's competitive position, any of which could adversely impact ME's business and reputation and have a material adverse effect on ME's financial condition and operations.

As the IT environment is constantly developing and changing ME must not only keep its current IT systems up to date but also implement new systems, in part to address regulatory requirements, but also to ensure information security, enhance technology based services to its customers, and integrate the various segments of its business. A failure to implement these projects effectively or execute them efficiently, could lead to increased project costs, delays in the ability to comply with regulatory requirements, failure of information security controls, or a decrease in ME's capacity and ability to service its customers.

### ***Data access, security and use***

ME has a significant online presence and business operations are reliant upon key systems, which are supported by a combination of in-house expertise and outsourced partners. Like all organisations, ME faces the risk of cyber-attacks. Cyber attackers include organised crime syndicates, hacker activists and state-based cyber espionage, all of which use techniques including denial of service attacks, hacking, network intrusions, malicious software, phishing, and other forms of social engineering. ME

has in place a number of ways in which it protects itself, and its customers' data, from cyber-attacks including identity management, firewalls, intrusion detection and prevention systems, and virus protection.

Given the continuing evolution of cyber security threats and their increasing sophistication ME maintains constant vigilance and endeavours to deliver ongoing control improvements. However, even with strong controls and ongoing enhancements, a successful cyber security attack remains possible, which, in the worst case scenario, could significantly disrupt business operations and/or result in loss of data, loss of customers, reputation damage and regulatory action. This would have an adverse effect on ME's reputation, business, financial performance, liquidity, capital resources, financial condition and prospects.

In addition, a breach of ME's cyber security could result in the loss and publication of customer data resulting in a breach of ME's privacy obligations.

### ***Outsourcing, and reliance on third parties***

Outsourcing involves an organisation entering into an agreement with a third party (including a related entity) to perform, on an ongoing basis, a business activity that currently is, or could be, undertaken within that organisation. 'Offshoring' is the practice of outsourcing business activities to a service provider located in another country or where material elements of the service are provided from another country.

ME has in place a number of material outsource arrangements which are structured, managed and controlled in a way intended to protect ME's reputation, and ensure the service to customers, financial performance and obligations to regulators are enhanced or preserved. Notwithstanding ME's approach to managing its outsourced arrangements, there remains a risk that these arrangements might fail or the objectives of the arrangements are not achieved.

### ***Model risk***

As ME uses models to support material decisions in relation to its business, there is a risk ME does not identify or correct fundamental errors in these models, and they produce invalid outputs for the intended business use. While ME has policies and procedures in place to address this risk, it is possible the complexity of its models, or the use of incorrect assumptions in the modelling, could result in material financial impacts.

### ***Reputational risk***

ME has a number of areas in which it could be exposed to reputational risk, some of which are outlined above, and may extend to the inappropriate management of conflicts of interest and other ethical issues, or poor sales and trading practices, or due to regulatory breaches (for example in relation to its anti-money laundering/counter-terrorism financing obligations).

If ME's reputation is damaged this could lead to a loss of public, consumer, shareholder, regulator or rating agency confidence in ME. This could lead to a loss of customers and have a negative impact on ME's financial position, its capacity to source funding and secure capital, or could trigger a loss of regulator confidence in ME. In addition, there is a risk that the activity which caused the reputational damage could also cause regulatory action and the imposition of penalties or other enforcement action as a consequence.

### ***Failure of risk management strategies***

ME has developed a Risk Management Strategy, supported by a Risk Management Framework (RMF) and Risk Appetite Statement, and internal controls which include processes and procedures intended to identify, measure, assess, monitor and mitigate the risks to which it is subject, including the risk classes discussed above.

While ME may have these approaches – and the RMF – in place, there are inherent limitations with any risk management framework as risks may exist, or develop, which ME has not identified or



anticipated or for which they have not put in place effective controls. If any of ME's risk management processes and procedures prove ineffective or inadequate or are otherwise not appropriately implemented, ME could suffer unexpected losses and reputational damage which could adversely affect ME's operations, financial performance, capital resources, financial condition and prospects.

## **Risks associated with the Capital Notes**

### ***Liquidity***

There may be no liquid market for Capital Notes. Holders who wish to sell their Capital Notes may be unable to do so at a price acceptable to them, or at all.

### ***Distributions may not be paid***

Distributions are discretionary and are payable only subject to no Payment Condition existing. Distributions are non-cumulative.

### ***It is not certain whether and when Capital Notes may be Redeemed***

There are a number of scenarios in which Capital Notes may be Redeemed. It is uncertain whether and when a Redemption may occur. The timing of any Redemption may not suit Holders. Capital Notes may not be Redeemed at all, in which case, Capital Notes have no maturity date.

### ***Write-off following a Non-Viability Trigger Event***

Holders should be aware that a Non-Viability Trigger Event could occur at any time. It could occur on dates not previously contemplated by them or which may be unfavourable in light of then prevailing market conditions or Holders' individual circumstances.

Where the Capital Notes are Written-off, all rights of Holders in respect of Capital Notes will be irrevocably terminated with effect on and from the date of the Non-Viability Trigger Event.

### ***Relevant Securities will be converted or written-off first***

It is important that investors understand that if a Non-Viability Trigger Event occurs and APRA does not require all capital instruments of the Issuer to be converted or written-off, Holders will be subject to Write-off ahead of any Tier 2 Capital instruments which the Issuer has issued or may issue in future.

### ***Restrictions on a winding-up of the Issuer***

In a winding-up of the Issuer, if Capital Notes have not been Redeemed or Written-off, Capital Notes will rank equally with all other Equal Ranking Instruments, but behind all Senior Creditors of the Issuer (including any Tier 2 Capital instruments which the Issuer has issued or may issue in future). If there is a shortfall of funds on a winding-up of the Issuer to pay all amounts ranking higher or equally with the Capital Notes, Holders will lose some or all of their investment.

### ***Regulatory classification and prudential supervision***

APRA's current treatment of the Capital Notes may change and that may give rise to a Regulatory Event entitling the Issuer, with APRA's approval, to Redeem the Capital Notes.

APRA has power under applicable law to direct the Issuer, which it may exercise in a manner adverse to Holders.

### ***Australian taxation***

The summary of the taxation treatment for certain Holders may not apply in the circumstances of particular Holders, and the tax laws on which it is based may change. Changes in tax law may be unfavourable for Holders. In particular, they may affect the taxation of Distributions or the return of the amount invested. They may affect the Issuer so as to give rise to a Tax Event, entitling the Issuer, with APRA's approval, to Redeem the Capital Notes.

# Terms of the Capital Notes

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*The following are the Terms which, as supplemented, amended, modified or replaced by the relevant Pricing Supplement, will apply to the Capital Notes. References to a "Pricing Supplement" in these Terms do not limit the provisions which may be supplemented, amended, modified or replaced by the Pricing Supplement in relation to a particular Tranche or Series of Capital Notes. Terms used in the relevant Pricing Supplement will, unless the contrary intention appears, have the same meaning where used in these Terms but will prevail to the extent of any inconsistency.*

*Each Holder, and any person claiming through or under a Holder, is deemed to have notice of and is bound by these Terms (including any relevant Pricing Supplement), the Deed Poll (as defined in these Terms) and this Information Memorandum. Copies of each of these documents are available for inspection by the Holder of any Capital Note at the offices of Members Equity Bank Limited and the Registrar at each of their respective addresses set out in the section entitled "Directory" below.*

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## **1 Introduction**

### **1.1 Programme**

Capital Notes are issued under the Programme.

### **1.2 Pricing Supplement**

- (a) The Issuer will issue the Capital Notes on the terms set out in these Terms as supplemented, amended, modified or replaced by the Pricing Supplement applicable to those Capital Notes. If there is any inconsistency between these Terms and such Pricing Supplement, the Pricing Supplement prevails.
- (b) Capital Notes are issued in Series. A Series may comprise one or more Tranches having one or more Issue Dates and on conditions otherwise identical (other than, to the extent relevant, in respect of the Issue Price, Issue Date and Distribution Commencement Date).
- (c) Copies of the Pricing Supplement are available for inspection or upon request by a Holder or prospective Holder during normal business hours at the Specified Office of the Issuer or the Registrar or are otherwise available on reasonable request from the Issuer or the Registrar.

### **1.3 Types of Capital Notes**

A Capital Note is either:

- (a) a Fixed Rate Note; or
- (b) a Floating Rate Note,

or a combination of the above as specified in the Pricing Supplement.

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## **2 Form of Capital Notes**

### **2.1 Form and Constitution**

- (a) The Capital Notes are perpetual, non-cumulative, subordinated, unsecured debt obligations in the form of unsecured notes issued by the Issuer.
- (b) Capital Notes are constituted by, and owing under, the Deed Poll.
- (c) Capital Notes are issued in registered form by entry in the Register.

## **2.2 Face Value and restriction on issue**

- (a) A Capital Note has a Face Value of A\$10,000 and is issued fully paid.
- (b) No person may subscribe for Capital Notes in Australia unless:
  - (i) the aggregate consideration payable to the Issuer by the subscriber is at least A\$500,000 (disregarding moneys lent by the Issuer or its associates) or if the Capital Notes are otherwise issued in a manner which does not require disclosure in accordance with Part 6D.2 or Part 7 of the Corporations Act; and
  - (ii) the offer or invitation from which the issue results does not constitute an offer to a “retail client” as defined for the purposes of section 761G of the Corporations Act.

## **2.3 Denomination**

Capital Notes shall be issued in the Denomination specified in the Pricing Supplement.

## **2.4 Currency**

Capital Notes are denominated in Australian dollars.

## **2.5 No certificates**

No certificates will be issued to Holders in respect of Capital Notes unless the Issuer determines that certificates should be available or are required by any applicable law.

## **2.6 No other rights**

Capital Notes confer no rights on a Holder:

- (a) to vote at any meeting of shareholders of the Issuer;
- (b) to subscribe for new securities or to participate in any bonus issues of securities of the Issuer; or
- (c) to otherwise participate in the profits or property of the Issuer,

except as expressly set out in these Terms or the Deed Poll.

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# **3 Status and ranking**

## **3.1 Status and ranking**

Capital Notes constitute fully paid, direct, unsecured and subordinated obligations of the Issuer and, unless Written-off, Holders will rank for payment of cash distributions (the “**Distributions**”) and for payment of the Redemption Price in a winding-up of the Issuer:

- (a) ahead of holders of Members Equity Bank Shares;
- (b) equally without any preference among themselves for each Series and with the holders of Equal Ranking Instruments; and
- (c) behind the claims of all Senior Creditors.

## **3.2 Not deposit liabilities of Members Equity Bank Limited**

Capital Notes are not:

- (a) deposits with, nor deposit liabilities of, Members Equity Bank Limited (ABN 56 070 887 679) or any other member of the ME Group for the purposes of the Banking Act;
- (b) protected accounts for the purposes of the depositor protection provisions of the Banking Act or the financial claims scheme established under the Banking Act;
- (c) guaranteed or insured by the Australian Government or under any compensation scheme of the Australian Government, or by any other government, under any other compensation scheme or by any government agency or any other party; nor
- (d) investments in any superannuation or other fund managed by a member of the ME Group.

## 4 Distributions

### 4.1 Distributions

Subject to these Terms, each Capital Note entitles the Holder on a Record Date to receive, on the relevant Distribution Payment Date, a cash distribution (“**Distribution**”) on its Face Value.

### 4.2 Distribution Rate

The Distribution Rate applicable in respect of Capital Notes of a Series will be set out in the Pricing Supplement.

### 4.3 Fixed Rate Notes

*The provisions of, and the defined terms contained in, this clause 4.3 apply to the Capital Notes only if the Pricing Supplement states that the Capital Notes are Fixed Rate Notes.*

- (a) The Distribution Rate applicable to a Capital Note for each Distribution Period (expressed as a percentage per annum) is specified in the applicable Pricing Supplement.
- (b) The amount of Distribution payable on each Distribution Payment Date in respect of the preceding Distribution Period in respect of each Capital Note is the Fixed Coupon Amount specified in the Pricing Supplement or, if a Fixed Coupon Amount is not specified, the amount calculated according to the following formula:

$$\text{Distribution} = \text{Distribution Rate} \times \text{Face Value} \times \text{Day Count Fraction}$$

### 4.4 Floating Rate Notes

*The provisions of, and the defined terms contained in, this clause 4.4 apply to the Capital Notes only if the Pricing Supplement states that the Capital Notes are Floating Rate Notes.*

- (a) The amount of Distribution payable on each Distribution Payment Date in respect of the preceding Distribution Period in respect of each Capital Note is the amount calculated according to the following formula:

$$\text{Distribution} = \frac{\text{Distribution Rate} \times \text{Face Value} \times \text{N}}{365}$$

where:

**Distribution Rate** (expressed as a percentage per annum) is calculated according to the following formula:

$$\text{Distribution Rate} = (\text{BBSW Rate} + \text{Margin}) \times (1 - \text{Tax Rate})$$

where:

**BBSW Rate** (expressed as a percentage per annum) means, for a Distribution Period, the rate for prime bank eligible securities having a tenor approximately equal to the relevant Distribution Period, which is designated as the “AVG MID” on the Thomson Reuters Screen BBSW Page (or any designation which replaces that designation on that page, or any page that replaces that page) at approximately 10:15am, Sydney time (or such other time at which such rate customarily appears on that page) on the relevant day (“**Publication Time**”), on the first Business Day of the Distribution Period. However, if such rate does not appear on the Thomson Reuters Screen BBSW Page (or any page that replaces that page) by 10:30am, Sydney time, on that day (or such other time that is 15 minutes after the then prevailing Publication Time), or if it does appear but the Issuer determines that there is an obvious error in that rate, “**BBSW Rate**” means the rate determined by the Issuer having regard to comparable indices then available;

**Margin** (expressed as a percentage per annum) means the margin specified in the Pricing Supplement; and

**N** means in respect of:

- (A) the first Distribution Payment Date, the number of days from (and including) the Issue Date until (but not including) the first Distribution Payment Date; and
- (B) each subsequent Distribution Payment Date, the number of days from (and including) the preceding Distribution Payment Date until (but not including) the relevant Distribution Payment Date.

#### 4.5 Franking Adjustments

If any Distribution is not franked to 100% under Part 3-6 of the Tax Legislation (or any provisions that revised or replace that Part), the Distribution will be calculated according to the following formula:

$$\text{Distribution} = \frac{D}{(1 - [T \times (1 - F)])}$$

where:

D means the Distribution calculated under clause 4.3 (in the case of Fixed Rate Notes) or clause 4.4 (in the case of Floating Rate Notes);

F means the applicable Franking Rate; and

T means the applicable Tax Rate.

#### 4.6 Payment of a Distribution

The payment of any Distribution on a Distribution Payment Date is subject to:

- (a) the absolute discretion of the Issuer and the Issuer may elect to pay some or none of a Distribution; and
- (b) no Payment Condition existing in respect of the relevant Distribution Payment Date.

The Issuer will notify the Registrar and the Holders as soon as practicable if it determines not to pay a Distribution.

#### **4.7 Distributions are discretionary and non-cumulative**

- (a) Payments of Distributions are within the absolute discretion of the Issuer and are non-cumulative. If all or any part of a Distribution is not paid because of clause 4.6 or this clause 4.7 or because of any other reason:
  - (i) the Issuer has no liability to pay the unpaid amount of the Distribution;
  - (ii) Holders have no claim or entitlement in respect of such non-payment (including, without limitation, on a winding-up of the Issuer); and
  - (iii) such non-payment does not constitute an event of default.
- (b) No interest accrues on any unpaid Distributions and Holders have no claim or entitlement in respect of interest on any unpaid Distributions.

#### **4.8 Record Dates**

A Distribution is only payable on a Distribution Payment Date to those persons registered as Holders on the Record Date for that Distribution.

#### **4.9 Notification of Distribution, Distribution Rate and other items**

For each Distribution Period, the Issuer must notify the Registrar and the Holders of:

- (a) if relevant, the sum of the BBSW Rate and the Margin as soon as practicable but in any event no later than the fourth Business Day of the Distribution Period; and
- (b) the Distribution Rate and the expected Distribution payable no later than the Record Date for that Distribution Period.

#### **4.10 Restrictions in the case of non-payment of a Distribution**

Subject to clause 4.11, if for any reason a Distribution has not been paid in full on a Distribution Payment Date (the “**Relevant Distribution Payment Date**”), the Issuer must not, without the approval of a Special Resolution, until and including the next Distribution Payment Date:

- (a) declare, determine to pay or pay a Dividend; or
- (b) undertake any Buy Back or Capital Reduction,

unless the Distribution is paid in full within 5 Business Days of the Relevant Distribution Payment Date.

#### **4.11 Exclusions from restrictions in case of non-payment**

The restrictions in clause 4.10 do not apply:

- (a) to a Buy Back or Capital Reduction in connection with any employment contract, employee share scheme, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants of the Issuer or a Controlled Entity of the Issuer; or
- (b) to the payment of a Dividend or completion of a Buy Back or Capital Reduction which the Issuer had become legally obliged to pay or complete at the time the relevant Distribution was not paid on the relevant Distribution Payment Date.

Nothing in these Terms prohibits the Issuer or a Controlled Entity of the Issuer from purchasing (or arranging for the purchase of) Members Equity Bank Shares (or an interest therein) in connection with transactions for the account of customers of the Issuer or any Controlled Entity of the Issuer or, with the prior written approval of APRA, in connection with

the distribution or trading of Members Equity Bank Shares in the ordinary course of business. This includes (for the avoidance of doubt and without affecting the foregoing) any acquisition resulting from:

- (i) taking security over Members Equity Bank Shares in the ordinary course of business; and
- (ii) acting as trustee for another person where neither the Issuer nor any Controlled Entity of the Issuer has a beneficial interest in the trust (other than a beneficial interest that arises from a security given for the purposes of a transaction entered into in the ordinary course of business).

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## 5 Write-off on Non-Viability Trigger Event

### 5.1 Non-Viability Trigger Event

- (a) A “**Non-Viability Trigger Event**” means the earlier of:
  - (i) the issuance of a notice in writing by APRA to the Issuer that conversion or write-off of Relevant Securities is necessary because, without it, APRA considers that the Issuer would become non-viable; or
  - (ii) a determination by APRA, notified to the Issuer in writing, that without a public sector injection of capital, or equivalent support, the Issuer would become non-viable.

A notice given or determination made by APRA under this clause 5.1(a) is a “**Non-Viability Determination**”.

- (b) If a Non-Viability Trigger Event occurs, the Issuer must convert to Members Equity Bank Shares or write-off:
  - (i) unless paragraph (ii) applies, all Relevant Securities (including the Capital Notes); or
  - (ii) where clause 5.1(a)(i) applies, an amount of Relevant Securities if APRA is satisfied that conversion to Members Equity Bank Shares or write-off of that amount will be sufficient to ensure that the Issuer does not become non-viable.
- (c) Where clause 5.1(b)(ii) applies, in determining the number of Capital Notes which must be Written-off in accordance with this clause 5, the Issuer will:
  - (i) first, convert or write-off Relevant Securities whose terms require or permit them to be converted or written-off before Write-off of the Capital Notes in full; and
  - (ii) secondly, if conversion or write-off of those Relevant Securities is not sufficient to satisfy the requirements of clause 5.1(b)(ii), Write-off Capital Notes and convert or write-off other Relevant Securities on an approximately pro-rata basis or in a manner that is otherwise, in the opinion of the Issuer, fair and reasonable (subject to such adjustment as the Issuer may determine to take into account the effect on marketable parcels and the need to round to whole numbers any Capital Notes or other Relevant Securities remaining on issue),

provided that such determination does not impede the immediate Write-off of the relevant number of Capital Notes.

## 5.2 Write-off

- (a) If a Non-Viability Trigger Event occurs:
  - (i) on that date, whether or not that day is a Business Day (the “**Write-off Date**”), the Issuer must determine in accordance with clauses 5.1(b) and 5.1(c) the number of the Capital Notes which will be Written-off and the number of other Relevant Securities which will convert or be written off in order that the Issuer does not become non-viable and must also determine the Holders whose Capital Notes will be Written-off and in making that determination may make any decisions with respect to the identity of the Holders as may be necessary or desirable to ensure Write-off occurs immediately and in an orderly manner, including disregarding any transfers of Capital Notes that have not been settled or registered at the time of the determination;
  - (ii) on the Write-off Date that number of Capital Notes will be Written-off and that number of Relevant Securities will be converted into Members Equity Bank Shares or written off, in each case immediately and irrevocably; and
  - (iii) the Issuer must give notice of the Non-Viability Trigger Event (a “**Non-Viability Trigger Event Notice**”) to Holders as soon as practicable which states the Write-off Date, the amount of Capital Notes Written-off and the number of Relevant Securities converted or written off.
- (b) If, in accordance with clause 5.1(b)(ii), the Issuer is required to write-off or convert (as applicable) only a specified amount of Relevant Securities (including Capital Notes), the Issuer must endeavour to treat Holders and holders of other Relevant Securities on an approximately proportionate basis but may discriminate to take into account the need to effect the write-off or conversion (as applicable) immediately.
- (c) None of the following shall prevent, impede or delay the Write-off of Capital Notes as required by this clause 5.2:
  - (i) any failure or delay in the conversion or write-off of other Relevant Securities;
  - (ii) any failure or delay in giving a Non-Viability Trigger Event Notice; or
  - (iii) any requirement to select the number of Capital Notes to be Written-off in accordance with clause 5.1(c)(ii) or clause 5.2(a)(ii) or any requirement to treat Holders and holders of Relevant Securities as required by clause 5.2(b).

## 5.3 Automatic Write-off upon the occurrence of a Non-Viability Trigger Event

If a Non-Viability Trigger Event has occurred and Capital Notes are required to be Written-off in accordance with this clause 5, then Write-off of such Capital Notes will occur in accordance with this clause 5 immediately upon the Write-off Date.

## 5.4 Meaning of Write-off

“**Written-off**” means, in respect of a Capital Note, that:

- (a) all rights conferred (including any rights to payments of Distributions and repayment of Face Value) or restrictions imposed on that Capital Note under these Terms will irrevocably terminate on and no longer have effect on and from the Write-off Date;
- (b) all obligations of the Issuer in respect of such Capital Note shall terminate on the Write-off Date;
- (c) for all purposes the Issuer will consider that Capital Note no longer to be outstanding; and



- (d) the Issuer shall instruct the Registrar to delete that Capital Note from the Register.

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## 6 Optional Redemption by the Issuer

### 6.1 Optional Redemption by the Issuer

Subject to clause 6.3, the Issuer may with APRA's prior written approval by notice to Holders (a "**Redemption Notice**") elect to Redeem:

- (a) all or some Capital Notes of a Series on a Distribution Payment Date following the occurrence of a Tax Event or a Regulatory Event; or
- (b) all or some Capital Notes of a Series on the date specified in the Pricing Supplement, being a date which is no earlier than the fifth anniversary of the Issue Date, or any subsequent Distribution Payment Date.

A Redemption Notice once given in accordance with this clause 6 is irrevocable unless a Non-Viability Trigger Event occurs after the giving of such notice, in which case, such notice will be taken to be revoked immediately and automatically and clause 5 shall apply.

### 6.2 Contents of Redemption Notice

A Redemption Notice must specify:

- (a) where clause 6.1(a) applies, the details of the Tax Event or Regulatory Event to which the Redemption Notice relates;
- (b) the date on which Redemption is to occur (the "**Redemption Date**"), which must fall no earlier than five Business Days after the date on which the Redemption Notice is given;
- (c) if less than all Capital Notes are subject to Redemption, which Capital Notes are subject to Redemption. In the case of a partial redemption, the Capital Notes to be Redeemed will be selected by the Issuer in such manner as it considers appropriate; and
- (d) whether any Distribution will be paid in respect of the Capital Notes to be Redeemed on the Redemption Date.

### 6.3 Conditions to Redemption or purchase

The Issuer may only Redeem or purchase the Capital Notes under this clause 6 if:

- (a) the Issuer has received the prior written approval of APRA (approval is at the discretion of APRA and may or may not be given);
- (b) before or concurrently with the Redemption or purchase, the Issuer:
  - (i) replaces the Capital Notes the subject of the Redemption or purchase with a capital instrument which is of the same or better quality (for the purposes of the Prudential Standards) than the Capital Notes and the replacement of the Capital Notes is done under conditions that are sustainable for the Issuer's income capacity; or
  - (ii) obtains confirmation from APRA that APRA is satisfied, having regard to the capital position of the Issuer and the ME Group, that the Issuer does not have to replace the Capital Notes.

*Holders should not expect that APRA's approval will be given for any Redemption or purchase of Capital Notes under these Terms.*

## **6.4 Redemption Mechanics**

- (a) A Capital Note will be Redeemed by payment on the Redemption Date of the Redemption Price.
- (b) Redemption may occur even if the Issuer, in its absolute discretion, does not pay a Distribution for the final Distribution Period.

## **6.5 Effect of Redemption on Holders**

On the Redemption Date the only right Holders will have in respect of Capital Notes will be to obtain the Redemption Price payable in accordance with these Terms and upon payment of the Redemption Price, all other rights conferred, or restrictions imposed, by Capital Notes will no longer have effect.

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# **7 Title and transfer of Capital Notes**

## **7.1 Title**

Title to Capital Notes passes when details of the transfer are entered in the Register.

## **7.2 Effect of entries in Register**

Each entry in the Register in respect of a Capital Note constitutes a separate and independent acknowledgment to the relevant Holder of the obligations of the Issuer to the relevant Holder.

## **7.3 Register conclusive as to ownership**

Entries in the Register in relation to a Capital Note constitute conclusive evidence that the person so entered is the absolute owner of the Capital Note subject to correction for fraud or error.

## **7.4 Non-recognition of interests**

- (a) Except as required by law and as provided in these Terms, the Issuer and the Registrar must treat the person whose name is entered in the Register as the holder of a Capital Note as the absolute owner of that Capital Note. This clause 7.4 applies whether or not payment has not been made as scheduled in respect of a Capital Note and despite any notice of ownership, Encumbrance, trust or interest in the Capital Note.
- (b) No notice of any trust, Encumbrance or other interest in or claim to any Note will be entered in the Register.

## **7.5 Joint holders**

Where two or more persons are entered in the Register as the joint holders of a Capital Note then they are taken to hold the Capital Note as joint tenants with rights of survivorship, but the Registrar is not bound to register more than four persons as joint holders of any Capital Note.

## **7.6 Austraclear**

- (a) If Capital Notes are lodged in the Austraclear System, the Registrar will enter Austraclear in the Register as the Holder of those Capital Notes. While those Capital Notes remain in the Austraclear System, all dealings (including transfers and payments) in relation to those Capital Notes within the Austraclear System will be governed by the regulations for the Austraclear System but without affecting any Term which may affect the eligibility of the Capital Notes for inclusion as Additional Tier 1 Capital of the Issuer.
- (b) Where Austraclear is recorded in the Register as the Holder, each person in whose Security Record (as defined in the Austraclear Regulations) a Capital Note is recorded is deemed to acknowledge in favour of the Registrar and Austraclear that:

- (i) the Registrar's decision to act as the Registrar of the Capital Note does not constitute a recommendation or endorsement by the Registrar or Austraclear in relation to the Capital Note but only indicates that such Capital Note is considered by the Registrar to be compatible with the performance by it of its obligations as Registrar under its agreement with the Issuer to act as Registrar of the Capital Note; and
- (ii) the Holder does not rely on any fact, matter or circumstance contrary to clause 7.6(b)(i).

## **7.7 Transfers in whole**

Capital Notes may be transferred in whole but not in part.

## **7.8 Transfer**

- (a) Where Capital Notes are not lodged in the Austraclear System, subject to clause 7.9, all applications to transfer Capital Notes must be made by lodging with the Registrar a properly completed transfer and acceptance form in the form approved by the Issuer and the Registrar signed by both the transferor and the transferee. Transfer and acceptance forms are available from any Registry Office (or such other office as may be specified in the Pricing Supplement).
- (b) Capital Notes lodged in the Austraclear System will be transferable only in accordance with the Austraclear Regulations.

## **7.9 Limit on Transfer**

- (a) The Capital Notes may only be transferred pursuant to offers received in Australia if:
  - (i) the aggregate consideration payable at the time of transfer is at least A\$500,000 (disregarding moneys lent by the transferor or its associates) or the transferee or the transfer otherwise does not require disclosure to investors in accordance with Part 6D.2 or Part 7 of the Corporations Act; and
  - (ii) the transfer does not constitute an offer to a "retail client" as defined for the purposes of section 761G of the Corporations Act.
- (b) Capital Notes may only be transferred between persons in a jurisdiction or jurisdictions other than Australia if the transfer is in compliance with the laws of the jurisdiction in which the transfer takes place and the transfer of the Capital Notes otherwise does not require disclosure to investors in accordance with the laws of the jurisdiction in which the transfer takes place.

## **7.10 Austraclear Services Limited as Registrar**

If Austraclear Services Limited is the Registrar and Capital Notes are lodged in the Austraclear System, despite any other provision of these Terms, those Capital Notes are not transferable on the Register, and the Issuer may not, and must procure that the Registrar does not, register any transfer of those Capital Notes issued by it and no member of the Austraclear System has the right to request any registration of any transfer of the relevant Capital Notes, except:

- (a) for the purposes of any Write-off, Redemption, repurchase or cancellation of the relevant Capital Note, a transfer of the relevant Capital Note from Austraclear to the Issuer may be entered in the Register; and
- (b) if Austraclear exercises or purports to exercise any power it may have under the Austraclear Regulations from time to time for the Austraclear System or these Terms, to require the relevant Capital Note to be transferred on the Register to a member of

the Austraclear System, the relevant Capital Note may be transferred on the Register from Austraclear to the member of the Austraclear System.

In any of these cases, the relevant Capital Note will cease to be held in the Austraclear System.

#### **7.11 Delivery of instrument and evidence**

If an instrument is used to transfer Capital Notes, it must be delivered to the Registrar, together with such evidence (if any) as the Registrar reasonably requires to prove the title of the transferor to, or right of the transferor to transfer, the Capital Notes.

#### **7.12 Refusal to register**

The Issuer may only refuse to register a transfer of any Capital Notes if such registration would contravene or is forbidden by Austraclear Regulations or the Terms.

If the Issuer refuses to register a transfer, the Issuer must give the lodging party notice of the refusal and the reasons for it within five Business Days after the date on which the transfer was delivered to the Registrar.

#### **7.13 Transferor to remain Holder until registration**

A transferor of a Capital Note remains the Holder in respect of that Capital Note until the transfer is registered and the name of the transferee is entered in the Register.

#### **7.14 Effect of transfer**

Upon registration and entry of the transferee in the Register, the transferor ceases to be entitled to future benefits under the Deed Poll and these Terms in respect of the transferred Capital Notes and the transferee becomes so entitled in accordance with clause 7.1 and clause 7.2.

#### **7.15 Estates**

A person becoming entitled to a Capital Note as a consequence of the death or bankruptcy of a Holder or of a vesting order or a person administering the estate of a Holder may, upon producing such evidence as to that entitlement or status as the Registrar considers sufficient, transfer the Capital Note or, if so entitled, become registered as the holder of the Capital Note.

#### **7.16 Transfer of unidentified Capital Notes**

Where the transferor executes a transfer of less than all Capital Notes registered in its name, and the specific Capital Notes to be transferred are not identified, the Registrar may register the transfer in respect of such of the Capital Notes registered in the name of the transferor as the Registrar thinks fit, provided the aggregate of the Face Value of all the Capital Notes registered as having been transferred equals the aggregate of the Face Value of all the Capital Notes expressed to be transferred in the transfer.

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## **8 Payments**

### **8.1 Payments subject to law**

All payments are subject to applicable law, but without prejudice to the provisions of clause 9.

### **8.2 Payments on Business Days**

If a payment in respect of a Capital Note:

- (a) is due on a day which is not a Business Day then the due date for payment will be postponed to the first following day that is a Business Day; or

- (b) is to be made to an account on a Business Day on which banks are not open for general banking business in the place in which the account is located, then the due date for payment to that Holder will be the first following day on which banks are open for general banking business in that place,

and, in either case, the Holder is not entitled to any additional payment in respect of that delay.

### **8.3 Payment of Redemption Price**

Payments of the Redemption Price will be made to each person registered at 10:00 am on the payment date as the holder of a Capital Note.

### **8.4 Payment of Distribution**

Payments of Distributions will be made to each person registered at the close of business on the Record Date as the holder of that Capital Note.

### **8.5 Payments to accounts**

Monies payable by the Issuer to a Holder in respect of a Capital Note may be paid in any manner in which cash may be paid as the Issuer decides, including by any method of direct credit determined by the Issuer to the Holder or Holders shown on the Register or to such person or place directed by them.

### **8.6 Payments by cheque**

The Issuer may decide that payments in respect of a Capital Note will be made by cheque sent by prepaid post on the payment date, at the risk of the registered Holder, to the Holder (or to the first named joint holder of the Capital Note) at its address appearing in the Register at the close of business on the Record Date. Cheques sent to the nominated address of a Holder will be taken to have been received by the Holder on the payment date and no further amount will be payable by the Issuer in respect of the Capital Notes as a result of the Holder not receiving payment on the due date.

### **8.7 Unsuccessful attempts to pay**

Subject to applicable law, where the Issuer:

- (a) decides that an amount is to be paid to a Holder by a method of direct credit and the Holder has not given a direction as to where amounts are to be paid by that method;
- (b) attempts to pay an amount to a Holder by direct credit, electronic transfer of funds or any other means and the transfer is unsuccessful;
- (c) has made reasonable efforts to locate a Holder but is unable to do so; or
- (d) has issued a cheque which has not been presented within six months of its date, then the Issuer may cancel such cheque,

then, in each case, the amount is to be held by the Issuer for the Holder in a non-interest bearing deposit with a bank selected by the Issuer until the Holder or any legal personal representative of the Holder claims the amount or the amount is paid by the Issuer according to the legislation relating to unclaimed money.

### **8.8 Payment to joint Holders**

A payment to any one of joint Holders will discharge the Issuer's liability in respect of the payment.

## **8.9 Time limit for claims**

A claim against the Issuer for a payment under a Capital Note is void unless made within 10 years (in the case of the Redemption Price) or five years (in the case of Distributions and other amounts) from the date on which payment first became due.

## **8.10 Determination and calculation final**

Except where there is fraud or a manifest error, any determination or calculation which the Issuer makes in accordance with these Terms is final and binds the Issuer, the Registrar and each Holder.

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# **9 Taxation**

## **9.1 No set-off, counterclaim or deductions**

All payments in respect of the Capital Notes must be made in full without set-off or counterclaim, and without any withholding or deduction in respect of Taxes, unless prohibited by law.

## **9.2 Withholding tax**

- (a) If a law requires the Issuer to withhold or deduct an amount in respect of Taxes from a payment in respect of the Capital Notes such that the Holder would not actually receive on the due date the full amount provided for under the Capital Notes, then the Issuer agrees to deduct the amount for the Taxes.
- (b) If any deduction is required, the Issuer must pay the full amount required to be deducted to the relevant revenue authority within the time allowed for such payment without incurring a penalty under the applicable law.
- (c) If:
  - (i) a deduction is made;
  - (ii) the amount of the deduction is accounted for by the Issuer to the relevant revenue authority; and
  - (iii) the balance of the amount payable has been paid to the Holder,

then the Issuer's obligation to make the payment to the Holder is taken to have been satisfied in full by the Issuer.

## **9.3 FATCA**

The Issuer may withhold or make deductions from payments to a Holder where it is required to do so under or in connection with FATCA, or where it has reasonable grounds to suspect that the Holder or a beneficial owner of Capital Notes may be subject to FATCA, and may deal with such payment in accordance with FATCA. If any withholding or deduction arises under or in connection with FATCA, the Issuer will not be required to pay any further amounts on account of such withholding or deduction or otherwise reimburse or compensate, or make any payment to, a Holder or a beneficial owner of Capital Notes for or in respect of any such withholding or deduction. A dealing with such payment in accordance with FATCA satisfies the Issuer's obligations to that Holder to the extent of the amount of that payment.

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# **10 Subordination and general rights in respect of Capital Notes**

## **10.1 Ranking in a winding-up of the Issuer**

If an order of a court of competent jurisdiction is made (other than an order successfully appealed or permanently stayed within 30 days), or an effective resolution is passed, for the

winding-up of the Issuer in Australia, the Issuer is liable to redeem each Capital Note for its Redemption Price in accordance with, and subject to, this clause 10.1 and clause 10.2.

## **10.2 Subordination**

In a winding-up of the Issuer:

- (a) a Holder shall be entitled to prove for the Redemption Price in respect of a Capital Note only subject to, and contingent upon, the prior payment in full of the Senior Creditors (including any entitlement to interest under section 563B of the Corporations Act) and a Holder must not claim in the winding up of the Issuer in competition with the Senior Creditors so as to diminish any distribution, dividend or payment which, but for that claim, the Senior Creditors would have been entitled to receive; and
- (b) the Holder's claim for payment of the Redemption Price ranks equally with, and shall be paid in proportion to, the claims of holders of Equal Ranking Instruments,

so that the Holder receives, for the Capital Note, an amount equal to the amount it would have received if, in the winding up of the Issuer, it had held an issued and fully paid Preference Share.

## **10.3 Agreements of Holders as to subordination**

Each Holder irrevocably agrees:

- (a) that clause 10.2 is a debt subordination for the purposes of section 563C of the Corporations Act;
- (b) that it does not have, and waives to the maximum extent permitted by law, any entitlement to interest under section 563B of the Corporations Act to the extent that a holder of a Preference Share would not be entitled to such interest;
- (c) that it shall not have, and is taken to have waived, to the fullest extent permitted by law, any right to prove in a winding-up of the Issuer as a creditor in respect of the Capital Notes so as to diminish any distribution, dividend or payment that any Senior Creditor would otherwise receive;
- (d) not to exercise any voting rights as a creditor in the winding-up or administration of the Issuer in a manner inconsistent with the ranking and subordination contemplated by clause 3 and clause 10.2;
- (e) that it must pay or deliver to the liquidator or administrator any amount or asset received on account of its claim in the winding-up or administration of the Issuer in respect of the Capital Notes in excess of its entitlement under clause 3 and clause 10.2;
- (f) that it must pay in full all liabilities it owes the Issuer before it may receive any amount or asset on account of its claim in the winding-up or administration in respect of a Capital Note;
- (g) that the debt subordination effected by clause 3 and clause 10.2 is not affected by any act or omission of any person which might otherwise affect it at law or in equity; and
- (h) that it has no remedy for the recovery of the Redemption Price other than to prove in the winding-up in accordance with this clause 10.3.

## **10.4 No further rights**

A Capital Note does not confer on the Holders any further right to participate in the winding-up

of the Issuer beyond payment of the Redemption Price.

#### **10.5 No set-off or offsetting rights**

A Holder:

- (a) may not exercise any right of set-off against the Issuer in respect of any claim by the Issuer against that Holder; and
- (b) will have no offsetting rights or claims on the Issuer if the Issuer does not pay an amount when scheduled under these Terms.

The Issuer may not exercise any right of set-off against a Holder in respect of any claim by that Holder against the Issuer.

#### **10.6 No consent of Senior Creditors**

Nothing in clause 3 or this clause 10 shall be taken:

- (a) to require the consent of any Senior Creditor to any amendment of these Terms; or
- (b) to create a charge or security interest over any right of a Holder.

#### **10.7 Power of attorney**

- (a) Each Holder appoints each of the Issuer, its officers and any External Administrator or statutory manager of the Issuer (each an “**Attorney**”) severally to be the attorney of the Holder with power in the name and on behalf of the Holder to sign all documents and transfers and do any other thing as may in the Attorney’s opinion be necessary or desirable to be done in order for the Holder to observe or perform the Holder’s obligations under these Terms including, but not limited to, effecting any Redemption.
- (b) The power of attorney given in this clause 10.7 is given for valuable consideration and to secure the performance by the Holder of the Holder’s obligations under these Terms and is irrevocable.

#### **10.8 Holder acknowledgments**

Each Holder irrevocably acknowledges and agrees that:

- (a) clause 5.2 is a fundamental term and where clause 5.2 applies, no other conditions or events will affect the operation of that clause and it will not have any rights to vote in respect of any Write-off;
- (b) a Holder has no right to apply for the Issuer to be wound up, or placed in administration, or to cause an External Administrator, receiver, or a receiver and manager, to be appointed in respect of the Issuer merely on the grounds that the Issuer does not or is or may become unable to pay a Distribution when scheduled in respect of Capital Notes; and
- (c) these Terms do not contain:
  - (i) any provisions requiring the Issuer to repay or redeem any Capital Notes prior to an order being made or an effective resolution being passed for the winding-up of the Issuer; or
  - (ii) any events of default and accordingly (but without limitation) the Issuer’s failure to pay a Distribution in full for any reason, or to comply with any of its obligations will not constitute an event of default.



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## **11 General provisions**

### **11.1 Voting**

- (a) The Deed Poll contains provisions for convening meetings of the Holders of any Series to consider any matter affecting their interests including certain variations of these Terms which require the consent of the Holders.
- (b) A Holder has no right to attend or vote at any general meeting of the shareholders of the Issuer.

### **11.2 Amendments without consent**

At any time and from time to time, but subject to compliance with the Corporations Act and all other applicable laws, the Issuer may, without the consent of the Holders, amend these Terms or the Deed Poll if such amendment is:

- (a) of a formal, technical or minor nature;
- (b) made to correct any manifest error;
- (c) made to cure any ambiguity or correct or supplement any defective or inconsistent provision and, in the reasonable opinion of the Issuer, is not materially prejudicial to the interests of the Holders;
- (d) necessary or expedient for the purpose of enabling the Capital Notes to be offered for subscription or for sale under the laws for the time being in force in any place;
- (e) necessary to comply with the provisions of any statute or the requirements of any statutory authority;
- (f) is made to:
  - (i) amend the terms of any Capital Notes to align them with any Relevant Securities issued after the date of such Capital Notes; or
  - (ii) amend the definition of "Relevant Security" on account of the issue (after the date of any Capital Notes) of capital instruments of the ME Group; or
- (g) in any other case, not materially prejudicial to the interests of the Holders as a whole,

provided that, in the case of an amendment pursuant to paragraph (d), (e) or (f), the Issuer has received an opinion of independent legal advisers of recognised standing in Victoria that such amendment is otherwise not materially prejudicial to the interests of Holders as a whole.

For the purposes of determining whether an amendment is not materially prejudicial to the interests of Holders as a whole, the taxation and regulatory capital consequences to a Holder (or any class of Holders) and other special consequences or circumstances which are personal to a Holder (or any class of Holders) do not need to be taken into account by the Issuer or its legal advisers.

### **11.3 Amendments with consent**

Unless clause 11.2 applies, the Issuer may amend these Terms with the approval of the Holders of the Series by Special Resolution in accordance with the Meeting Provisions.

### **11.4 Consents**

Prior to any amendment under this clause 11, the Issuer must obtain any consent needed to the amendment and, in particular, any amendment which may affect the eligibility of the Capital Notes for inclusion as Additional Tier 1 Capital of the Issuer, is subject to the prior

written consent of APRA.

## 11.5 Interpretation

In this clause 11, “**amend**” includes modify, cancel, alter, waive or add to, and “**amendment**” has a corresponding meaning.

## 11.6 Notices

### (a) Notices to Holders

All notices and other communications by the Issuer to a Holder must be in writing and sent by fax or prepaid post (airmail if appropriate) to or left at the address of the Holder (as shown in the Register at the close of business on the day which is three Business Days before the date of the notice or communication) or sent by email or electronic message to the electronic address (if any) nominated by that person and may also be given:

- (i) by an advertisement published in *The Australian Financial Review*, *The Australian* or any other newspaper of national circulation in Australia; or
- (ii) where Capital Notes are lodged in the Austraclear System, by delivery to the Austraclear System for communication by the Austraclear System to the persons shown in its records as having interests therein.

### (b) Delivery of certain notices

Notwithstanding clause 11.6(a), a notice under clause 4.9 of the Terms, a Non-Viability Trigger Event Notice and a notice of change of Specified Office may each be given to Holders and the Registrar by the Issuer publishing the notice on the Issuer's website.

### (c) Notices

All notices and other communications to the Issuer, the Registrar or any other person (other than Holders) must be in writing and may be sent by fax or electronic messages to the electronic address (if any) of the addressee or by prepaid post (airmail if appropriate) to or may be left at the Specified Office of the Issuer, the Registrar or such other person.

### (d) When effective

Notices and other communications the subject of this clause 11.6 take effect from the time they are taken to be received unless a later time is specified in them.

### (e) Receipt – publication in newspaper or via Austraclear System

If published in a newspaper, a notice or other communication is taken to be received on the first date that publication has been made in all the required newspapers or, where Capital Notes are lodged in the Austraclear System, on the fourth Business Day after delivery to the Austraclear System.

### (f) Deemed receipt – postal, fax or email

- (i) If sent by post, notices or other communications the subject of this clause 11.6 are taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

- (ii) If sent by fax, notices or other communications the subject of this clause 11.6 are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.
- (iii) If sent by email, notices or other communications the subject of this clause 11.6 are taken to be received when:
  - (A) the sender receives an automated message confirming delivery; or
  - (B) four hours after the time sent (as recorded on the device from which the sender sent the email), provided that the sender does not receive an automated message within those four hours that the email has not been delivered.

(g) **Deemed receipt - general**

Despite clause 11.6(f), if notices or other communications the subject of this clause 11.6 are received after 5.00 pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00 am on the next Business Day in the place of receipt.

(h) **Copies of notices**

If these Terms require a notice or other communication to be copied to another person, a failure to so deliver the copy will not invalidate the notice or other communication.

## 11.7 Further issues

The Issuer may from time to time, without the consent of any Holder, issue any securities ranking equally with the Capital Notes (on the same terms or otherwise) or ranking in priority or junior to the Capital Notes, or incur or guarantee any indebtedness upon such terms as it may think fit in its sole discretion.

## 11.8 Purchase by agreement

Subject to APRA's prior written approval, the Issuer or any member of the ME Group may purchase Capital Notes at any time and at any price. Any Capital Note purchased by or on behalf of the Issuer shall be cancelled.

## 11.9 Governing law, jurisdiction and service of process

- (a) These Terms and the Capital Notes are governed by and shall be construed in accordance with the laws in force in Victoria, Australia.
- (b) The Issuer has irrevocably agreed for the benefit of the Holders that the courts of Victoria, Australia are to have non-exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Capital Notes and accordingly has submitted to the non-exclusive jurisdiction of the courts of Victoria, Australia. The Issuer waives any objection to the courts of Victoria, Australia on the grounds that they are an inconvenient or inappropriate forum.
- (c) The Issuer agrees that process in connection with any proceedings in Victoria, Australia may be served at the Specified Office of the Issuer. Nothing in these Terms affects the right to serve process in any other manner permitted by law.

## 11.10 Rounding

For the purposes of any calculations required under these Terms:

- (a) all percentages resulting from the calculations must be rounded, if necessary, to the nearest ten-thousandth of a percentage point (with 0.00005% being rounded up to 0.0001%);
- (b) all figures must be rounded to four decimal places (with 0.00005 being rounded up to 0.0001); and
- (c) all amounts that are due and payable to a Holder in respect of the Holder's aggregate holding of the Capital Notes must be rounded to the nearest one Australian cent (with 0.5 of a cent being rounded up to one cent).

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## 12 Interpretation and definitions

### 12.1 Interpretation

In these Terms, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a document includes all schedules or annexes to it;
- (d) a reference to a clause or paragraph is to a clause or paragraph of these Terms;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) a reference to "**Australia**" includes any political sub-division or territory in the Commonwealth of Australia;
- (g) a reference to "**Australian dollars**", "**A\$**" or "**Australian cent**" is a reference to the lawful currency of Australia;
- (h) a reference to time is to Melbourne, Australia time, unless otherwise stated;
- (i) other than:
  - (i) in relation to a Non-Viability Trigger Event and a Write-off; and
  - (ii) where a contrary intention is expressed,

if an event under these Terms must occur on a stipulated day which is not a Business Day, then the stipulated day will be taken to be the next Business Day;
- (j) a reference to a person includes a reference to the person's executors, administrators, successors and permitted assigns and substitutes;
- (k) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (l) a reference to a "**Pricing Supplement**" is a reference to the Pricing Supplement applicable to the Capital Notes of the particular Tranche specified in that Pricing Supplement;
- (m) a reference to a statute, ordinance, code, rule, directive or law (however described) includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

- (n) the meaning of general words is not limited by specific examples introduced by “including”, “for example” or similar expressions;
- (o) any agreement, representation or warranty by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (p) headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of these Terms;
- (q) any provisions which refer to the requirements of APRA or any other prudential regulatory requirements will apply to the Issuer only if the Issuer is an entity subject to regulation and supervision by APRA at the relevant time;
- (r) a reference to “Additional Tier 1 Capital” or “Related Entity” shall, if either term is replaced or superseded in any of APRA’s applicable prudential regulatory requirements or standards, be taken to be a reference to the replacement or equivalent term;
- (s) any provisions which require APRA’s consent or approval (written or otherwise) will apply only if APRA requires that such consent or approval be given at the relevant time; and
- (t) any provisions in these Terms requiring the prior approval of APRA for a particular course of action to be taken by the Issuer do not imply that APRA has given its consent or approval to the particular action as of the Issue Date or that it will at any time give its consent or approval to the particular action.

## 12.2 Definitions

In these Terms, these meanings apply unless the contrary intention appears:

**Additional Tier 1 Capital** means the additional tier 1 capital of the ME Level 1 Group or the ME Level 2 Group as defined by APRA from time to time.

**APRA** means the Australian Prudential Regulation Authority or any authority succeeding to its powers and responsibilities.

**Attorney** has the meaning given in clause 10.7.

**Austraclear** means Austraclear Ltd (ABN 94 002 060 773).

**Austraclear Regulations** means the regulations known as the ‘Regulations and Operating Manual’ established by Austraclear (as amended from time to time) to govern the use of the Austraclear System.

**Austraclear Services Limited** means Austraclear Services Limited (ABN 28 003 284 419).

**Austraclear System** means the system operated by Austraclear for holding Capital Notes and the electronic recording and settling of transactions in those Capital Notes between members of that system.

**Banking Act** means the Banking Act 1959 (Cth).

**BBSW Rate** has the meaning given in clause 4.4.

**Business Day** means:

- (a) a day which is a business day within the meaning of the ASX Listing Rules; and

- (b) for the purposes of calculation or payment of Distributions or any other amount, a day on which banks are open for business in Sydney and Melbourne.

**Business Day Convention** means a convention for adjusting any date if it would otherwise fall on a day that is not a Business Day and the following conventions, where specified in the Pricing Supplement in relation to any date applicable to any Capital Note, have the following meanings:

- (a) **Floating Rate Convention** means that the date is postponed to the next following day which is a Business Day unless that day falls in the next calendar month, in which event:
- (i) that date is brought forward to the first preceding day that is a Business Day; and
  - (ii) each subsequent Distribution Payment Date is the last Business Day in the month which falls the number of months or other period specified as the Distribution Period in the Pricing Supplement after the preceding applicable Distribution Payment Date occurred;
- (b) **Following Business Day Convention** means that the date is postponed to the first following day that is a Business Day;
- (c) **Modified Following Business Day Convention** or **Modified Business Day Convention** means that the date is postponed to the first following day that is a Business Day unless that day falls in the next calendar month in which case that date is brought forward to the first preceding day that is a Business Day;
- (d) **Preceding Business Day Convention** means that the date is brought forward to the first preceding day that is a Business Day; and
- (e) **No Adjustment** means that the relevant date must not be adjusted in accordance with any Business Day Convention.

If no convention is specified in the Pricing Supplement, the Following Business Day Convention applies. Different conventions may be specified in relation to, or apply to, different dates.

**Buy Back** means a transaction involving the acquisition by the Issuer of Members Equity Bank Shares pursuant to an offer made at the Issuer's discretion in any way permitted by the provisions of Part 2J of the Corporations Act.

**Capital Note** means a ME Bank Capital Note, being a fully paid, subordinated, perpetual debt security or debt obligation issued or to be issued by the Issuer which is constituted by, and owing under, the Deed Poll, the details of which are recorded in, and evidenced by entry in, the Register. All references to Capital Notes must, unless the context otherwise requires, be read and construed as references to the Capital Notes of a particular Series.

**Capital Reduction** means a reduction in capital initiated by the Issuer in its discretion in respect of Members Equity Bank Shares in any way permitted by the provisions of Chapter 2J of the Corporations Act.

**Common Equity Tier 1 Capital** means the common equity tier 1 capital of the ME Level 1 Group or the ME Level 2 Group as defined by APRA from time to time.

**Control** has the meaning given in the Corporations Act.

**Controlled Entity** means, in respect of the Issuer, an entity the Issuer Controls.

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

**Day Count Fraction** means, in respect of the calculation of interest on a Capital Note for any period of time (“**Calculation Period**”), the day count fraction specified in the Pricing Supplement and:

- (a) if “**Actual/Actual (ICMA)**” is so specified, means:
  - (i) where the Calculation Period is equal to or shorter than the Regular Period during which it falls, the actual number of days in the Calculation Period divided by the product of (1) the actual number of days in such Regular Period, and (2) the number of Regular Periods normally ending in any year; and
  - (ii) where the Calculation Period is longer than one Regular Period, the sum of:
    - (A) the actual number of days in such Calculation Period falling in the Regular Period in which it begins divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and
    - (B) the actual number of days in such Calculation Period falling in the next Regular Period divided by the product of (1) the actual number of days in such Regular Period, and (2) the number of Regular Periods normally ending in any year;
- (b) if “**Actual/Actual**” or “**Actual/Actual (ISDA)**” is so specified, means the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of:
  - (i) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366; and
  - (ii) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);
- (c) if “**Actual/365 (Fixed)**” is so specified, means the actual number of days in the Calculation Period divided by 365;
- (d) if “**Actual/360**” is so specified, means the actual number of days in the Calculation Period divided by 360;
- (e) if “**30/360**”, “**360/360**” or “**Bond Basis**” is so specified, means the number of days in the Calculation Period divided by 360 calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

- “**Y<sub>1</sub>**” is the year, expressed as a number, in which the first day of the Calculation Period falls;
- “**Y<sub>2</sub>**” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;
- “**M<sub>1</sub>**” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;
- “**M<sub>2</sub>**” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;
- “**D<sub>1</sub>**” is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

“D<sub>2</sub>” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31 and D<sub>1</sub> is greater than 29, in which case D<sub>2</sub> will be 30;

- (f) if “**30E/360**” or “**Eurobond basis**” is so specified, means the number of days in the Calculation Period divided by 360 calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

“Y<sub>1</sub>” is the year, expressed as a number, in which the first day of the Calculation Period falls;

“Y<sub>2</sub>” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“M<sub>1</sub>” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

“M<sub>2</sub>” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“D<sub>1</sub>” is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

“D<sub>2</sub>” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31 and D<sub>1</sub> is greater than 29, in which case D<sub>2</sub> will be 30;

- (g) if “**30E/360 (ISDA)**” is so specified, means the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

“Y<sub>1</sub>” is the year, expressed as a number, in which the first day of the Calculation Period falls;

“Y<sub>2</sub>” is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“M<sub>1</sub>” is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

“M<sub>2</sub>” is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

“D<sub>1</sub>” is the first calendar day, expressed as a number, of the Calculation Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case D<sub>1</sub> will be 30; and

“D<sub>2</sub>” is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless (i) that day is the last day of February but not the Redemption Date or (ii) such number would be 31, in which case D<sub>2</sub> will be 30; and

- (h) if “**RBA Bond Basis**” or “**Australian Bond Basis**” is so specified, means one divided by the number of Distribution Payment Dates in a year (or where the Calculation Period does not constitute a Distribution Period, the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of:



- (i) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366; and
- (ii) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365).

**Deed Poll** means the Members Equity Bank Capital Notes Deed Poll dated 14 November 2017.

**Denomination** means the notional face value of a Capital Note specified in the Pricing Supplement.

**Directors** means some or all of the directors of the Issuer acting as a board.

**Distribution** has the meaning given in clause 4.1.

**Distribution Commencement Date** means, in respect of a Capital Note, the Issue Date of the Capital Note or any other date so specified in the Pricing Supplement.

**Distribution Payment Date** means each date so specified in, or determined in accordance with, the Pricing Supplement (and adjusted, if necessary, in accordance with the applicable Business Day Convention if so specified in the Pricing Supplement).

**Distribution Period** means in respect of:

- (a) the first Distribution Period, the period from (and including) the Distribution Commencement Date until (but not including) the first Distribution Payment Date after the Distribution Commencement Date; and
- (b) each subsequent Distribution Period, the period from (and including) the preceding Distribution Payment Date until (but not including) the next Distribution Payment Date.

**Distribution Rate** means, in respect of a Capital Note, the distribution rate (expressed as a percentage per annum) payable in respect of that Capital Note specified in the Pricing Supplement or calculated or determined in accordance with the Terms.

**Dividend** means any interim, final or special dividend payable in accordance with the Corporations Act and the Issuer's constitution in relation to Members Equity Bank Shares.

**Encumbrance** means any mortgage, pledge, charge, lien, assignment by way of security, hypothecation, security interest, title retention, preferential right or trust arrangement, any other security agreement or security arrangement (including any security interest under the Personal Property Securities Act 2009 (Cth)) and any other arrangement of any kind having the same effect as any of the foregoing other than liens arising by operation of law.

**Equal Ranking Instrument** means any instruments, present and future, which satisfy one of the following paragraphs (a) or (b):

- (a) instruments which by their terms are, or are expressed to be, subordinated in a winding-up of the Issuer to the claims of Senior Creditors, qualify as Additional Tier 1 Capital of the Issuer and which, in a winding-up of the Issuer rank, or are expressed to rank, prior to, and senior in right of payment to, instruments which constitute Common Equity Tier 1 Capital of the Issuer; or
- (b) instruments issued by the Issuer where the right to repayment ranks, or is expressed to rank, in a winding-up of the Issuer equally with the claims of Holders (irrespective of whether or not such instruments qualify as Additional Tier 1 Capital of the Issuer).

**External Administrator** means, in respect of a person:

- (a) a liquidator, a provisional liquidator, an administrator or a statutory manager of that person; or
- (b) a receiver, or a receiver and manager, in respect of all or substantially all of the assets and undertaking of that person, or in either case any similar official.

Expressions used in this definition have meanings given in the Corporations Act.

**Face Value** means the principal amount of a Capital Note, being A\$10,000 or such other amount so specified in the Pricing Supplement.

**FATCA** means the *Foreign Account Tax Compliance Act* provisions, sections 1471 through 1474 of the United States Internal Revenue Code (including any regulations or official interpretations issued, agreements entered into or non-US laws enacted with respect to those provisions).

**Fixed Coupon Amount** has the meaning given in the Pricing Supplement.

**Fixed Rate Note** means a Capital Note on which interest is calculated at a fixed rate payable in arrear on a fixed date or fixed dates in each year and on redemption or on any other dates as specified in the Pricing Supplement.

**Floating Rate Note** means a Capital Note on which interest is calculated at a floating rate payable in arrear monthly or 2, 3, 6, or 12 monthly or in respect of any other period or on any other date specified in the Pricing Supplement.

**Franking Rate** (expressed as a decimal) means the franking percentage (within the meaning of Part 3-6 of the Tax Legislation or any provisions that revise or replace that Part) applicable to the franking account of the Issuer at the relevant Distribution Payment Date.

**Holder** means, in respect of a Capital Note the person whose name is entered on the Register as the holder of that Capital Note.

**Holder Resolution** means a resolution passed:

- (a) at a meeting of Holders of the Capital Notes, duly called and held under the Meeting Provisions:
  - (i) by at least 50% of the persons voting on a show of hands (unless paragraph (b) below applies); or
  - (ii) if a poll is duly demanded, by a majority consisting of at least 50% of the votes cast; or
- (b) by postal ballot or written resolution under the Meeting Provisions by Holders representing (in aggregate) at least 50% of the aggregate Face Value of the outstanding Capital Notes.

**Information Memorandum** means, in respect of a Capital Note:

- (a) the Information Memorandum dated 14 November 2017 or the then latest information memorandum which replaces that document; or
- (b) the information memorandum or other offering document referred to in the Pricing Supplement,

in each case prepared by, or on behalf of, and approved in writing by, the Issuer in connection with the issue of that Capital Note and all documents incorporated by reference in it, including the Pricing Supplement and any other amendments or supplements to it.

**Issue Date** means the date on which a Capital Note is, or is to be issued, and as may be specified, or determined in accordance with, the Pricing Supplement.

**Issue Price** means, in respect of a Capital Note or a Series of Capital Notes, the price as set out in the Pricing Supplement.

**Issuer** means Members Equity Bank Limited (ABN 56 070 887 679).

**Margin** means the margin specified in the Pricing Supplement.

**Meeting Provisions** means the provisions for meetings of the Holders set out in schedule 2 to the Deed Poll.

**ME Group** means the Issuer and its Controlled Entities.

**ME Level 1 Group** means the Issuer and those of its controlled entities included by APRA from time to time in the calculation of the Issuer's capital ratios on a Level 1 basis.

**ME Level 2 Group** means the Issuer together with each Related Entity included by APRA from time to time in the calculation of the Issuer's capital ratios on a Level 2 basis.

**Members Equity Bank Shares** means Ordinary Shares and any other shares in the capital of the Issuer constituting Common Equity Tier 1 Capital of the Issuer.

**Non-Viability Trigger Event** has the meaning given in clause 5.1(a).

**Non-Viability Trigger Event Notice** has the meaning given in clause 5.2(a)(iii).

**Ordinary Share** means a fully paid ordinary share in the capital of the Issuer.

**Payment Condition** means, with respect to the payment of a Distribution on the Capital Notes on a Distribution Payment Date:

- (a) payment of the Distribution would result in the Issuer breaching APRA's capital adequacy requirements applicable to it;
- (b) the payment would result in the Issuer becoming, or being likely to become, insolvent for the purposes of the Corporations Act; or
- (c) APRA objecting to the payment.

**Preference Share** means a notional preference share in the capital of the Issuer conferring a claim in the winding up of the Issuer equal to the Redemption Price and ranking in respect of return of capital in the winding up ahead only of Ordinary Shares and equally with Relevant Securities.

**Pricing Supplement** means the Pricing Supplement prepared in relation to the Capital Notes of a particular Tranche.

**Programme** means the Programme for the Issuance of Capital Notes established by the Issuer.

**Prudential Standards** means the prudential standards and guidelines published by APRA and applicable to the Issuer or the ME Group from time to time.

**Record Date** means, for payment of a Distribution, the date which is eight calendar days before the Distribution Payment Date for that Distribution or any other date so specified in the Pricing Supplement.

**Redemption** means the redemption of a Capital Note in accordance with clause 6.4 and the words **Redeem**, **Redeemable** and **Redeemed** have corresponding meanings.

**Redemption Date** has the meaning given in clause 6.2(b).

**Redemption Notice** has the meaning given in clause 6.1.

**Redemption Price** means the Face Value of the Capital Notes as at the date of redemption and also includes any other amount in the nature of a redemption amount specified in, or determined in accordance with, the Pricing Supplement or these Terms.

**Register** means the register, including any branch register, of Holders established and maintained by or on behalf of the Issuer under the Registry Agreement.

**Registrar** means, in respect of a Series of Capital Notes:

- (a) Austraclear Services Limited; or
- (b) any other person appointed by the Issuer to maintain the Register and perform any payment and other duties as specified in that agreement,

in each case as specified in the Pricing Supplement.

**Registry Agreement** means the agreement entitled “Agency and Registry Services Agreement” dated 25 September 2006 between the Issuer and Austraclear Services Limited (ABN 28 003 284 419).

**Registry Office** means the office of the Registrar as specified in the Registry Agreement or such other office which is notified by the Issuer to Holders from time to time.

**Regular Period** means:

- (a) in the case of Capital Notes where a Distribution is scheduled to be paid only by means of regular payments, each Distribution Period;
- (b) in the case of Capital Notes where, apart from the first Distribution Period, Distributions are scheduled to be paid only by means of regular payments, each period from and including a Regular Date falling in any year to but excluding the next Regular Date, where “Regular Date” means the day and month (but not the year) on which any Distribution Payment Date falls; and
- (c) in the case of Capital Notes where, apart from one Distribution Period other than the first Distribution Period, Distributions are scheduled to be paid only by means of regular payments, each period from and including a Regular Date falling in any year to but excluding the next Regular Date, where “Regular Date” means the day and month (but not the year) on which any Distribution Payment Date falls other than the Distribution Payment Date falling at the end of the irregular Distribution Period;

**Regulatory Event** means:

- (a) the receipt by the Directors of an opinion from a reputable legal counsel that, as a result of any amendment to, clarification of or change (including any announcement of a change that will be introduced) in, any law or regulation in Australia or any official administrative pronouncement or action or judicial decision interpreting or applying such laws or regulations or any statement of APRA which amendment, clarification or change is effective, or pronouncement, action or decision is announced, on or after the Issue Date and which on the Issue Date is not expected by the Issuer to come into effect (each, a “**Regulatory Change**”), additional requirements would be imposed on the Issuer in relation to or in connection with Capital Notes which the Directors (having received all approvals they consider in their absolute discretion to be

necessary (including from APRA)) determine, in their absolute discretion, to be unacceptable; or

- (b) a determination by the Directors (having received all approvals they consider in their absolute discretion to be necessary (including from APRA)) that, as a result of a Regulatory Change, the Issuer is not or will not be entitled to treat all Capital Notes as Additional Tier 1 Capital.

**Related Entity** means in respect of the Issuer, any parent entity of the Issuer or any entity over which the Issuer or any parent entity of the Issuer exercises control or significant influence, as determined by APRA from time to time.

**Relevant Security** means, where a Non-Viability Trigger Event occurs, a Tier 1 Capital instrument that, in accordance with its terms or by operation of law, is capable of being converted into Members Equity Bank Shares or written-off where that event occurs.

**Senior Creditors** means all present and future creditors of the Issuer, including depositors, whose claims are:

- (a) entitled to be admitted in a winding-up of the Issuer; and
- (b) not expressed to rank equally with, or subordinate to, the claims of a Holder.

**Series** means an issue of Capital Notes.

**Special Resolution** means:

- (a) a resolution passed at a meeting of the Holders duly called and held under the Meeting Provisions:
  - (i) by at least 75% of the persons voting on a show of hands (unless paragraph (b) below applies); or
  - (ii) if a poll is duly demanded, then by a majority consisting of at least 75% of the votes cast; or
- (b) a resolution passed by postal ballot or written resolution under the Meeting Provisions by Holders representing (in aggregate) at least 75% of the aggregate Face Value of the outstanding Capital Notes.

**Specified Office** means the office specified in the section "Directory" in the Information Memorandum as the address of the relevant party or person or any other address notified to Holders from time to time.

**Taxes** means taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any authority together with any related interest, penalties, fines and expenses in connection with them, except if imposed on, or calculated having regard to, the net income of the Holder.

**Tax Event** means the receipt by the Directors of an opinion from a reputable legal counsel or other tax adviser in Australia experienced in such matters to the effect that, as a result of:

- (a) any amendment to, clarification of, or change (including any announcement of a change that will be introduced) in the laws or treaties or any regulations affecting taxation in Australia;
- (b) any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) affecting taxation in Australia ("**Administrative Action**"); or

- (c) any amendment to, clarification of, or change in an Administrative Action that provides for a position that differs from the current generally accepted position,

in each case, by any legislative body, court, governmental authority (including, without limitation, a tax authority) or regulatory body in Australia, irrespective of the manner in which such amendment, clarification, change or Administrative Action is made known, which amendment, clarification, change or Administrative Action is effective, or which pronouncement or decision is announced, on or after the Issue Date and which on the Issue Date is not expected by the Issuer to come into effect, there is more than an insubstantial risk which the Directors determine (having received all approvals they consider in their absolute discretion to be necessary (including from APRA)) at their absolute discretion to be unacceptable that:

- (i) any Distribution would not be a frankable dividend or distribution within the meaning of Division 202 of the Tax Legislation; or
- (ii) the Issuer would be exposed to more than a de minimis adverse tax consequence (including without limitation through the imposition of any taxes, duties, assessments or other charges) in relation to Capital Notes.

**Tax Legislation** means:

- (a) the Income Tax Assessment Act 1936 (Cth) or the Income Tax Assessment Act 1997 (Cth) as the case may be (and a reference to any section of the Income Tax Assessment Act 1936 includes a reference to that section as rewritten in the Income Tax Assessment 1997);
- (b) any other law setting the rate of income tax payable; and
- (c) any regulation made under such laws.

**Tax Rate** (expressed as a decimal) means the Australian corporate tax rate applicable to the franking account of the Issuer at the relevant Distribution Payment Date.

**Tier 1 Capital** means the tier 1 capital of the ME Level 1 Group or the ME Level 2 Group as defined by APRA from time to time.

**Terms** means, in relation to a Capital Note, these terms and conditions amended, supplemented, modified or replaced by the Pricing Supplement and references to a particular numbered Term shall be construed accordingly.

**Tranche** means an issue of Capital Notes specified as such in a Pricing Supplement issued on the same Issue Date and on the same Terms.

**Write-off Date** has the meaning given in clause 5.2(a)(i).

**Written-off** has the meaning given in clause 5.4 and **Write-off** has corresponding meanings.

### 12.3 Terms defined in Pricing Supplement

Terms which are defined in the Pricing Supplement have the same meaning when used in these Terms but if the Pricing Supplement gives no meaning or specifies that the definition is "Not Applicable", then that definition is not applicable to the Capital Notes.

## Form of Pricing Supplement

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Series No.: [•]

Tranche No.: [•]



**Members Equity Bank Limited**  
(ABN 56 070 887 679)

### **Programme for the Issuance of Capital Notes**

Issue of  
**A\$[•][Aggregate Principal Amount of Notes] Perpetual Capital Notes**  
**(“Capital Notes”)**

The date of this Pricing Supplement is [•] (“**Pricing Supplement**”).

This Pricing Supplement (as referred to in the Information Memorandum dated 14 November 2017 (“**Information Memorandum**”) in relation to the above Programme) relates to the Tranche of Capital Notes referred to above. It is supplementary to, and should be read in conjunction with the terms and conditions of the Capital Notes contained in the Information Memorandum (“**Terms**”) and the Note Deed Poll dated 14 November 2017 made by the Issuer. Unless otherwise indicated, terms defined in the Conditions have the same meanings in this Pricing Supplement.

The Capital Notes qualify as Additional Tier 1 Capital of Members Equity Bank Limited (“**Issuer**”) under the prudential standards and guidelines made by the Australian Prudential Regulation Authority (“**APRA**”) and applicable to the Issuer. The Capital Notes will be Written-off if a Non-Viability Trigger Event occurs.

This Pricing Supplement does not constitute, and may not be used for the purposes of, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation, and no action is being taken to permit an offering of the Capital Notes or the distribution of this Pricing Supplement in any jurisdiction where such action is required.

The particulars to be specified in relation to the Tranche of Capital Notes referred to above are as follows:

1	Issuer	:	Members Equity Bank Limited (ABN 56 070 887 679)
2	Type of Notes	:	Perpetual, non-cumulative, subordinated, unsecured debt obligations constituting Additional Tier 1 Capital of the Issuer which are [Fixed Rate Notes (Condition 4.3) / Floating Rate Notes (Condition 4.4)]
3	Method of distribution	:	[Private / Syndicated Issue]
4	[Arranger]	:	[Members Equity Bank Limited (ABN 56 070 887 679)]/[insert other (ABN [●])]
5	Dealer[s]	:	[insert] (ABN [●])
6	Registrar	:	[Austraclear Services Limited (ABN 28 003 284 419)]/[insert other (ABN [●])]
7	Status of the Capital Notes	:	Subordinated (ranking ahead only of Members Equity Bank Shares and any other instruments constituting Common Equity Tier 1 Capital of the Issuer)  The Capital Notes do not constitute deposit liabilities of the Issuer for the purposes of the Banking Act 1959 (Cth).
8	[If to form a single Series with an existing Series, specify date on which all Capital Notes of the Series become fungible, if not the Issue Date]	:	[All Capital Notes of this Tranche are to form a single Series with Series [●] and become fungible from [●] [days] immediately following issue / Not Applicable.]
9	Aggregate principal amount of Capital Notes	:	A\$[●]
10	Issue Date	:	[Specify]
11	Issue Price / Purchase Price	:	[Specify]
12	Currency	:	Australian dollars
13	Denomination and Face Value	:	A\$[10,000]/[other amount]
14	Record Date	:	[Terms apply]/[Specify other]
15	Distribution Rate	:	[[●]% [being fixed rate multiplied by $x(1 - \text{Tax Rate})$ (if Fixed Rate Notes) / As per Condition 4.4 (if Floating Rate Notes)]
16	Distribution Commencement Date, if not Issue Date	:	[Specify / Not applicable]
17	Distribution Payment Dates	:	[Specify dates]



- 18 Business Day Convention : [Floating Rate Convention (specify interest period) / Following Business Day Convention / Modified Following Business Day Convention / Preceding Business Day Convention / No Adjustment / other]
- 19 Margin : [If the Capital Notes are Floating Rate Notes, [specify]% per annum] / [If the Capital Notes are Fixed Rate Notes, [Not applicable]]
- 20 Fixed Coupon Amount : [If the Capital Notes are Fixed Rate Notes, specify Fixed Coupon Amount] / [If the Capital Notes are Floating Rate Notes, [Not applicable]]
- 21 Day Count Fraction : [If the Capital Notes are Fixed Rate Notes, specify Day Count Fraction] / [If the Capital Notes are Floating Rate Notes, [Not applicable]]
- 22 Rounding : [As per Terms / Not applicable]
- 23 Optional Redemption by the Issuer : Clause [6.1(b)] of the Terms is [applicable / not applicable].
- [For the purposes of clause [6.1(b)] of the Terms , the first date on which the Issuer may Redeem the Capital Notes is [●] [date must be no earlier than the fifth anniversary of the Issue Date]
- [The Issuer must obtain the prior written approval of APRA before Redeeming Capital Notes. Such approval may or may not be given] [include where clause [6.1] of the Terms is applicable]
- 24 Specify any other conditions to exercise of option (which are not set out in Terms) : [Specify] / [Not Applicable]
- 25 Early Redemption on occurrence of Tax Event : Clause [6.1(a)] (Tax Event) of the Terms is [applicable / not applicable]
- 26 Early Redemption on occurrence of Regulatory Event : Clause [6.1(a)] (Regulatory Event) of the Terms is [applicable / not applicable]
- 27 Additional or alternate newspapers : [Specify any additional or alternate newspapers for the purposes of clause [●] of the Terms]

- 28 Other relevant terms and conditions or amendments to Terms : *[Specify any Terms to be altered, varied, deleted otherwise than as provided above and also any additional Terms to be included]*
- As provided in the Information Memorandum, the Capital Notes will not be issued unless the aggregate consideration payable by each offeree is at least A\$500,000 (disregarding moneys lent by the offeror or its associates) or the offer or invitation does not otherwise require disclosure to investors in accordance with Parts 6D.2 or 7.9 of the Corporations Act 2001 of Australia ("**Corporations Act**").
- 29 Clearing System(s) : Austraclear System
- 30 ISIN : *[Specify]*
- 31 [Common Code] : *[Specify]*
- 32 Selling Restrictions : *[Specify any variation to the selling restrictions set out in the Information Memorandum]/[As per Information Memorandum]*
- 33 [Listing] : *[Not Applicable / An application has been made for the Notes to be quoted on the Australian Securities Exchange / specify details of other listing or quotation on a relevant stock or securities exchange]*
- 34 [Credit ratings] : *[The Notes to be issued are expected to be rated Specify].*
- A credit rating is not a recommendation to buy, sell or hold Notes and may be subject to revision, suspension or withdrawal at any time by the assigning rating agency.*
- Credit ratings are for distribution only to a person who is (a) not a "retail client" within the meaning of section 761G of the Corporations Act and is also a sophisticated investor, professional investor or other investor in respect of whom disclosure is not required under Parts 6D.2 or 7.9 of the Corporations Act, and (b) otherwise permitted to receive credit ratings in accordance with applicable law in any jurisdiction in which the person may be located. Anyone who is not such a person is not entitled to receive this Pricing Supplement and anyone who receives this Pricing Supplement must not distribute it to any person who is not entitled to receive it.]*
- 35 [Other amendments] : *[Specify]*

**CONFIRMED**

For and on behalf of  
**Members Equity Bank Limited**

By: .....

Name: .....

Title: .....

Date: .....

## Subscription and Sale

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Pursuant to the Dealer Agreement dated 14 November 2017 (“**Dealer Agreement**”), Capital Notes will be offered by the Issuer through the Dealers. The Issuer will have the sole right to accept any such offers to purchase Capital Notes and may reject any such offer in whole or (subject to the terms of such offer) in part. A Dealer will have the right, in its discretion reasonably exercised, to reject any offer to purchase Capital Notes made to it in whole or (subject to the terms of such offer) in part.

Each Dealer has acknowledged or will acknowledge that no action has been or will be taken in any country or jurisdiction by the Issuer or the Dealer that would permit a public offering of Capital Notes, or possession or distribution of any offering material in a public offering of Capital Notes, or possession or distribution of any offering material in relation thereto, in any country or jurisdiction where action for that purpose is required.

By its purchase and acceptance of Capital Notes issued under the Dealer Agreement (as supplemented by a Subscription Agreement), each Dealer will be required to agree, and each further Dealer appointed under the Programme will be required to represent and agree, that it will observe all applicable laws, regulations and directives in any jurisdiction in which it may offer, sell, or deliver Capital Notes and that it will not directly or indirectly offer, sell, resell, re-offer or deliver Capital Notes in any country or jurisdiction except under circumstances that will result in compliance with all applicable laws and directives.

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### 1 General

No action has been taken in any jurisdiction that would permit a public offering of any of the Capital Notes, or possession or distribution of the Information Memorandum or any other offering material, in any country or jurisdiction where action for that purpose is required.

Persons into whose hands this Information Memorandum comes are required by Members Equity Bank and the Dealers to comply with all applicable laws and regulations in each country or jurisdiction in which they purchase, offer, sell, resell, reoffer or deliver Capital Notes or have in their possession or distribute or publish the Information Memorandum or other offering material and to obtain any authorisation, consent, approval or permission required by them for the purchase, offer, sale, reoffer, resale or delivery by them of any Capital Notes under the applicable law, directive or regulation in force in any jurisdiction to which they are subject or in which they make such purchases, offers, sales, reoffers, resales or deliveries, in all cases at their own expense, and neither the Issuer nor any Dealer has responsibility for such matters. In accordance with the above, any Capital Notes purchased by any person which it wishes to offer for sale or resale may not be offered in any jurisdiction in circumstances which would result in the Issuer or any Dealer being obliged to register any further prospectus or corresponding document relating to the Capital Notes in such jurisdiction.

In particular, there are restrictions on the distribution of this Information Memorandum and the offer or sale of Capital Notes in Australia, the United Kingdom, the United States of America, the European Economic Area, Hong Kong, Singapore, Japan and New Zealand as set out below.

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### 2 Australia

No prospectus or other disclosure document (as defined in the Corporations Act) in relation to the issue and sale of Capital Notes has been, or will be, lodged with ASIC. The Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it:

- (a) has not made or invited, and will not make or invite, an offer of the Capital Notes for issue or sale in Australia (including an offer or invitation which is received by a person

in Australia); and

- (b) has not distributed or published and will not distribute or publish, the Information Memorandum or any other offering material or advertisement relating to the Capital Notes in Australia,

unless:

- (i) the aggregate consideration payable by each offeree is a minimum of A\$500,000 (or its equivalent in an alternative currency and, in either case, disregarding moneys lent by the offeror or its associates) or the offer or invitation does not otherwise require disclosure to investors under Parts 6D.2 or 7.9 of the Corporations Act;
- (ii) the offer or invitation does not constitute an offer to a “**retail client**” as defined for the purposes of section 761G of the Corporations Act;
- (iii) such action complies with all applicable laws, directives and regulations (including, without limitation, the licensing requirements of Chapter 7 of the Corporations Act); and
- (iv) such action does not require any document to be lodged with, or registered by, ASIC.

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### **3 The United Kingdom**

In addition to the requirements of paragraph 5 below (“European Economic Area – Public offer Selling Restrictions under the Prospectus Directive”), the Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that:

- (a) it has complied, and will comply, with all applicable provisions of the Financial Services and Markets Act 2000 (“**FSMA**”) with respect to anything done by it in relation to such Capital Notes in, from or otherwise involving the United Kingdom;
- (b) it has only communicated, or caused to be communicated, and will only communicate, or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of such Capital Notes in circumstances in which section 21(1) of the FSMA would not, if the Issuer was not an authorised person, apply to the Issuer.

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### **4 The United States of America**

#### *Regulation S; Category 2*

The Capital Notes have not been, and will not be, registered under the U.S. Securities Act, the securities laws of any state of the United States or the securities laws of any other jurisdiction and the Capital Notes may not be offered, sold, pledged, delivered, transferred or otherwise disposed of, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. persons except in certain transactions exempt from, or in transactions not subject to, the registration requirements of the U.S. Securities Act. Terms used in the preceding sentence and the following three paragraphs, have the meaning given to them by Regulation S under the U.S. Securities Act.

The Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not entered and will not enter into any contractual arrangement with respect to the distribution or delivery of the Capital

Notes, except with its affiliates or with the prior consent of the Issuer.

The Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it will not offer, sell or deliver any Capital Notes, (i) as part of its distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the Issue Date of the Capital Notes (“**Distribution Compliance Period**”), within the United States or to, or for the account or benefit of, U.S. persons. The Dealer has agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it will send to each further Dealer to which it sells any Capital Notes during the Distribution Compliance Period a confirmation or other notice setting forth the restrictions on offers and sales of the Capital Notes within the United States or to, or for the account or benefit of, U.S. persons.

In addition, during the Distribution Compliance Period, an offer or sale of any Capital Notes within the United States by a Dealer that is not participating in the offering may violate the registration requirements of the U.S. Securities Act if such offer or sale is made otherwise than in reliance upon an applicable exemption from the registration requirements under the U.S. Securities Act.

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## 5 European Economic Area

### Public offer Selling Restrictions under the Prospectus Directive

In relation to each Member State of the European Economic Area (the “**EEA**”) which has implemented the Prospectus Directive (each, a “**Relevant EEA State**”), the Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that, with effect from and including the date on which the Prospectus Directive is implemented in that Relevant EEA State (“**Relevant Implementation Date**”), it has not made and will not make an offer of Capital Notes to the public in that Relevant EEA State, except that it may, with effect from and including the Relevant Implementation Date, make an offer of Capital Notes to the public in that Relevant EEA State:

- (a) at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- (b) at any time to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive), subject to obtaining the prior consent of the other relevant Dealer or Dealers nominated by the Issuer for any such offer; or
- (c) at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Capital Notes referred to in (a) to (c) above shall require the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression “**offer of Capital Notes to the public**” in relation to any Capital Notes in any Relevant EEA State means the communication in any form and by any means of sufficient information on the terms of the offer and the Capital Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Capital Notes, as the same may be varied in that Relevant EEA State by any measure implementing the Prospectus Directive in that Member State, the expression “**Prospectus Directive**” means the Directive 2003/71/EC (and amendments thereto) and includes any relevant implementing measure in the Relevant EEA State.

### Prohibition of Sales to EEA Retail Investors

From 1 January 2018, the Dealer has represented and agreed, and each further Dealer

appointed under the Programme will be required to represent and agree, that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Capital Notes which are the subject of the offering contemplated by this Information Memorandum as completed by the Pricing Supplement in relation thereto to any retail investor in the European Economic Area. For the purposes of this provision:

- (a) the expression “retail investor” means a person who is one (or more) of the following:
  - (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, “**MiFID II**”); or
  - (ii) a customer within the meaning of Directive 2002/92/EC (as amended), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or
  - (iii) not a qualified investor as defined in the Prospectus Directive; and
- (b) the expression “offer” includes the communication in any form and by any means of sufficient information on the terms of the offer and the Capital Notes to be offered so as to enable an investor to decide to purchase or subscribe the Capital Notes.

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## 6 Hong Kong

The Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that:

- (a) the Capital Notes have not been authorised by the Hong Kong Securities and Futures Commission;
- (b) it has not offered, sold, delivered or transferred, and will not offer, sell, deliver or transfer in Hong Kong Capital Notes, by means of any document, any Capital Notes (except for Capital Notes which are a “structured product” as defined in the Securities and Futures Ordinance (Cap.571) of Hong Kong (“**SFO**”)) other than:
  - (i) to “professional investors” within the meaning of the SFO and any rules made under the SFO; or
  - (ii) in other circumstances which do not result in the document being a “prospectus” within the meaning of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) (as amended) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance; and
- (c) it has not issued or had in its possession for the purposes of issue, and will not issue, or have in its possession for the purpose of issue, (in each case, whether in Hong Kong or elsewhere) any advertisement, invitation or other offering material or other document relating to the Capital Notes, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to Capital Notes which are, or are intended to be, disposed of only to persons outside Hong Kong or only to “professional investors” within the meaning of the SFO and any rules made under the SFO.

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## 7 Singapore

This Information Memorandum has not been and will not be registered as a prospectus with the Monetary Authority of Singapore under the Securities and Futures Act, Chapter 289 of Singapore, as amended (“**Securities and Futures Act**”).

The Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that the Information Memorandum and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Capital Notes has not been and will not be circulated or distributed by it nor have the Capital Notes been, nor will the Capital Notes be, offered or sold by it, or be subject to an invitation for subscription or purchase by it, whether directly or indirectly, to persons in Singapore other than:

- (a) to an institutional investor under Section 274 of the Securities and Futures Act;
- (b) to a relevant person pursuant to Section 275(1) of the Securities and Futures Act, or any person pursuant to Section 275(1A) of the Securities and Futures Act, and in accordance with the conditions specified in Section 275 of the Securities and Futures Act; or
- (c) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the Securities and Futures Act.

Where the Capital Notes are subscribed or purchased under Section 275 of the Securities and Futures Act by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the Securities and Futures Act)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (d) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities (as defined in Section 239(1) of the Securities and Futures Act) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust may not be transferred within six months after that corporation or that trust has acquired the Capital Notes pursuant to an offer made under Section 275 of the Securities and Futures Act except:

- (i) to an institutional investor (under Section 274 of the Securities and Futures Act) or to a relevant person (as defined in Section 275(2) of the Securities and Futures Act) and in accordance with the conditions specified in Section 275 of the Securities and Futures Act;
- (ii) (in the case of a corporation) where the transfer arises from an offer referred to in Section 276(3)(i)(B) of the Securities and Futures Act or (in the case of a trust) where the transfer arises from an offer referred to in Section 276(4)(i)(B) of the Securities and Futures Act;
- (iii) where no consideration is, or will be, given for the transfer;
- (iv) where the transfer is by operation of law;
- (v) as specified in Section 276(7) of the Securities and Futures Act; or
- (vi) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

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## 8 Japan

The Capital Notes have not been and will not be registered under the Financial Instruments and Exchange Law of Japan ("FIEL") and, accordingly, the Dealer has represented and



agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that it has not offered or sold, and will not offer or sell any Capital Notes, directly or indirectly in Japan or to, or for the account or benefit of, any Japanese Person or to others for re-offering or resale, directly or indirectly, in Japan or to, or for the account or benefit of, any Japanese Person, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with the FIEL and any other applicable laws, regulations and guidelines promulgated by the relevant Japanese governmental authorities in effect at the relevant time. For the purposes of this paragraph, “**Japanese Person**” means any person resident in Japan, including any corporation or other entity organised under the laws of Japan.

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## 9 New Zealand

No action has been or will be taken by any Dealer which would permit a regulated offer of any securities, or possession or distribution of any offering material in relation to the securities, in New Zealand.

The Dealer has represented and agreed, and each further Dealer appointed under the Programme will be required to represent and agree, that: (1) it has not offered, sold or delivered and will not directly or indirectly offer, sell, or deliver any securities; and (2) it will not distribute this Information Memorandum or advertisement in relation to any offer of the Capital Notes, in New Zealand other than to any or all of the following persons only:

- (a) "wholesale investors" as that term is defined in clauses 3(2)(a), (c) and (d) of Schedule 1 to the Financial Markets Conduct Act 2013 of New Zealand (“**FMC Act**”), being a person who is:
  - (i) an "investment business";
  - (ii) "large"; or
  - (iii) a "government agency",in each case as defined in Schedule 1 to the FMC Act; and
- (b) in other circumstances where there is no contravention of the FMC Act.

## Australian Taxation

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The following is a summary of the Australian income tax, capital gains tax (“**CGT**”) and goods and services tax (“**GST**”) consequences for Australian tax resident Holders of Capital Notes (“**Resident Holders**”) and Holders who are not tax residents of Australia (“**Non-Resident Holders**”) who hold the Capital Notes on capital account for tax purposes.

The following is general in nature and should be treated with appropriate caution. It is not exhaustive and, in particular, does not deal with the position of certain classes of Holders of Capital Notes (including, dealers in securities, custodians or other third parties who hold Capital Notes on behalf of any Holder). Prospective Holders of Capital Notes who are in any doubt as to their tax position should consult their professional advisers on the tax implications of an investment in the Capital Notes for their particular circumstances. This summary should not be read as constituting advice to any particular Holder.

The Issuer has applied for a public class ruling from the ATO on a number of Australian taxation implications for Resident Holders. The information provided below is consistent with that application. Resident Holders should refer to the ATO’s class ruling once it is published.

### 1. Distributions on Capital Notes

The Capital Notes should be characterised as non-share equity interests for Australian income tax purposes. Distributions should be treated as non-share dividends and not as interest income for income tax purposes.

Distributions on the Capital Notes are frankable distributions and may carry franking credits. Distributions are expected to be franked at the same rate as the Issuer’s Ordinary Shares. The Issuer will provide distribution statements to Holders in respect of each Distribution on the Capital Notes. Holders may refer to the distribution statement to ascertain:

- (a) the amount of the Distribution;
- (b) the amount of franking credits attached to the Distribution; and
- (c) the amount of the unfranked part of the Distribution that is declared by the Issuer to be conduit foreign income.

#### *Resident Holders*

The amount of Distributions will be included in the assessable income of a Resident Holder.

Provided the Resident Holder is a ‘qualified person’ (see discussion below) in relation to a Distribution, the franking credit should also be included in the assessable income of the Resident Holder and the Resident Holder should be entitled to a tax offset equal to the amount of the franking credits.

For some Resident Holders, if the tax offset exceeds their income tax liability for an income year, the excess tax offset may be refunded.

A Resident Holder will be a ‘qualified person’ in relation to a Distribution if the Resident Holder has held the Capital Notes ‘at risk’ for a continuous period of at least 90 days during the relevant qualification period.

The length of the qualification period will depend on whether the Resident Holder has made a ‘related payment’ in relation to the Distribution. Generally, this occurs where the Resident Holder makes a payment which passes the benefit of the Distribution to another person.

The Commissioner of Taxation may also apply anti-avoidance rules to deny the benefit of franking credits to Holders in limited circumstances.

These issues are being addressed in the ATO class ruling requested by the Issuer. Resident Holders should refer to the ATO class ruling once it is published.

### *Non-Resident Holders*

Non-resident Holders who do not hold the Capital Notes at or through a permanent establishment in Australia may be subject to Australian dividend withholding tax on the Distributions.

If Distributions are partially franked, dividend withholding tax at the rate of 30% may be applied. Dividend withholding tax should generally not apply to non-resident Holders to the extent that:

- the non-resident Holder derives the Distribution in carrying on a business at or through a permanent establishment in Australia;
- the Distribution is franked; or
- the amount of the unfranked part of the Distribution is declared by the Issuer to be conduit foreign income.

Australian dividend withholding tax is imposed at a general rate of 30% but the rate may be reduced under a double tax treaty between Australia and the jurisdiction where the Holder is resident.

If any dividend withholding tax is applicable, the Issuer will not increase the amount of the Distribution to account for that withholding.

## **2. ABN/TFN withholding tax**

Holders may choose to notify the Issuer of their tax file number (“TFN”), Australian Business Number (“ABN”), or a relevant exemption from ABN/TFN withholding tax with respect to Distributions.

If the Issuer does not receive such notification, withholding tax may be deducted at the rate of (currently) 47%. It is expected that the withholding tax rate will increase to 47.5% from 1 July 2019.

Holders may be able to claim a tax credit or rebate in respect of any tax withheld on the Distributions in their income tax returns.

## **3. CGT consequences of ordinary disposal**

Gains and losses made on the disposal of Capital Notes should be taxed under the CGT provisions. This is on the basis that the Capital Notes should not be treated as ‘traditional securities’ for income tax purposes.

The cost base of each Capital Note acquired by a Holder should include the Face Value of the Capital Note which the Holder pays on subscription. The cost base of each Capital Note should also include certain incidental costs (e.g. legal costs, broker fees) associated with the purchase and disposal of the Capital Note.

A Holder who acquires Capital Notes pursuant to the offering under this Information Memorandum should be taken to acquire the Capital Notes on the Issue Date.

### *Resident Holders*

A Resident Holder should make a capital gain on the sale of Capital Notes if the sale proceeds exceed their cost base in the Capital Notes. If the sale proceeds are less than their reduced cost base, the Resident Holder should make a capital loss. Capital losses may only be offset against capital gains (and not other income) in the same or later years of income.

A Resident Holder may be entitled to the CGT discount in respect of a capital gain made on the sale of Capital Notes if they have held the Capital Notes for at least 12 months. A Resident Holder who is an individual or trust is entitled to a discount percentage of 50% and complying superannuation entities are entitled to a discount percentage of 33⅓%. Companies are not entitled to the CGT discount.

### *Non-resident Holders*

Any capital gain or capital loss made in respect of the Capital Notes by a Non-Resident

Holder who does not hold the Capital Notes at or through a permanent establishment in Australia should be disregarded for Australian tax purposes.

#### **4. CGT consequences of Redemption and Write-off**

##### **4.1 Redemption**

A Redemption of the Capital Notes should constitute a disposal of Capital Notes for CGT purposes. Holders should refer to the consequences set out above at section 3 in relation to the CGT consequences on a disposal of Capital Notes.

##### **4.2 Write-off**

The Capital Notes will only be Written-off in limited circumstances if a Non-Viability Trigger Event occurs. A Write-off of Capital Notes may cause Resident Holders to make a capital loss. This is on the basis that no capital proceeds will be provided to Resident Holders on a Write-off of their Capital Notes. As discussed above, capital losses may only be offset against capital gains (and not other income) of the same or later years of income.

#### **5 Taxation of Financial Arrangements**

The 'taxation of financial arrangements' ("TOFA") regime contains tax timing rules for certain taxpayers to bring to account gains and losses from "financial arrangements". The TOFA regime does not generally apply to an investment in Capital Notes unless the Holder has made certain elections under the TOFA regime.

Holders who have made one of the elections should obtain specific tax advice relating to their individual circumstances regarding the application of the TOFA regime to their investment in the Capital Notes.

#### **6 Goods and services tax**

Holders should not be liable for GST in respect of their investment in Capital Notes or the disposal of Capital Notes.

Additionally, input tax credits are unlikely to be available for any GST paid by Holder in respect of costs (e.g. legal fees) incurred in relation to the acquisition of Capital Notes.

#### **7 Stamp duty**

Neither the issue to nor the receipt by a Holder of the Capital Notes should give rise to a stamp duty liability in any Australian State or Territory provided that following the issue or receipt of Capital Notes, no Holder will, either alone or together with any associated persons, be entitled to a distribution of 50% or more of the property of the Issuer on a notional distribution of all the property of the Issuer.

The Redemption or Write-off of the Capital Notes in accordance with the Terms should also not give rise to any stamp duty liability in any Australian State or Territory following the Redemption or Write-off of the Capital Notes in accordance with the Terms, provided that no Holder will either alone or together with any associated person hold an interest in the Issuer of 50% or more.

## **U.S. FOREIGN ACCOUNT TAX COMPLIANCE ACT AND OECD COMMON REPORTING STANDARD**

### **FATCA**

Under sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (“**FATCA**”), a 30% withholding (“**FATCA withholding**”) may be required if (i)(A) an investor does not provide information sufficient for the Issuer or any other non-U.S. financial institution (“**FFI**”) through which payments on the Capital Notes are made to determine the Holder’s status under FATCA, or (B) an FFI to or through which payments on the Capital Notes are made is a “non-participating FFI”; and (ii) the Capital Notes are treated as debt for U.S. federal income tax purposes and the payment is made in respect of Notes issued or modified after the date that is six months after the date on which final regulations defining the term “foreign passthru payment” are filed with the U.S. Federal Register, or the Capital Notes are treated as equity for U.S. federal income tax purposes, whenever issued. This withholding is not expected to apply prior to 1 January 2019.

Reporting Australian Financial Institutions (“**RAFI**”) under the Australia–U.S. FATCA Intergovernmental Agreement dated 28 April 2014 must comply with specific due diligence procedures to identify their account holders and provide the Australian Taxation Office (“**ATO**”) with information on financial accounts held by U.S. persons and recalcitrant account holders. The ATO is required to provide such information to the U.S. Internal Revenue Service. Consequently, Holders may be requested to provide certain information and certifications to the Issuer and to any other financial institutions through which payments on the Capital Notes are made. A RAFI that complies with its obligations under the Australian IGA will not be subject to FATCA withholding on amounts it receives, and will not be required to deduct FATCA withholding from payments it makes, other than in certain prescribed circumstances.

In the event that any amount is required to be withheld or deducted from a payment on the Capital Notes as a result of FATCA, pursuant to the terms and conditions of the Capital Notes, no additional amounts will be paid by the Issuer as a result of the deduction or withholding.

### **Common Reporting Standard**

The OECD Common Reporting Standard for Automatic Exchange of Financial Account Information (“**CRS**”) requires certain financial institutions to report information regarding certain accounts (which may include the Capital Notes) to their local tax authority and follow related due diligence procedures. Holders may be requested to provide certain information and certifications to ensure compliance with the CRS. A jurisdiction that has signed a CRS Competent Authority Agreement may provide this information to other jurisdictions that have signed the CRS Competent Authority Agreement. The Australian Government has enacted legislation amending, among other things, the Taxation Administration Act 1953 of Australia to give effect to the CRS. The CRS applies to Australian financial institutions with effect from 1 July 2017.

## Directory

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