



Financial Claims Scheme (ADIs) Levy Act 2008

No. 103, 2008

**An Act to provide for the imposition of a levy on
liabilities of authorised deposit-taking institutions
to their depositors**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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An Act to provide for the imposition of a levy on liabilities of authorised deposit-taking institutions to their depositors

[Assented to 17 October 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Financial Claims Scheme (ADIs) Levy Act 2008*.

Section 2

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	17 October 2008
2. Sections 3 to 6	The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) the commencement of Schedule 1 to the <i>Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Act 2008</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	18 October 2008

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Definitions

In this Act:

ADI has the same meaning as in the *Banking Act 1959*.

APRA has the same meaning as in the *Banking Act 1959*.

APRA's financial claims scheme costs for an ADI in relation to which Subdivision C of Division 2AA of Part II of the *Banking Act 1959* applies or applied means the sum of:

- (a) entitlements under that Subdivision relating to the ADI; and
- (b) the costs of the following:
 - (i) the administration of that Division in relation to the ADI;
 - (ii) the exercise of APRA's powers under that Division in relation to the ADI;
 - (iii) the performance of APRA's functions under that Division in relation to the ADI; and
- (c) the costs of any borrowing under section 54E of the *Australian Prudential Regulation Authority Act 1998* connected with the application of that Subdivision in relation to the ADI.

levy means levy imposed under this Act.

4 Regulations may impose levies

- (1) In connection with the application of Subdivision C of Division 2AA of Part II of the *Banking Act 1959* in relation to an ADI, the regulations may impose levy on the liabilities that:
 - (a) are liabilities of ADIs in a class prescribed by the regulations to their depositors; and
 - (b) exist at the end of a financial year or other 12-month accounting period used instead of a financial year.
- (2) The regulations must prescribe the class for the purposes of paragraph (1)(a) so as to exclude all ADIs in relation to which that Subdivision applies.

5 Amount of levy

- (1) The amount of levy is the amount worked out in accordance with the regulations.
- (2) However, the amount of levy on an ADI's liabilities to its depositors cannot be more than 0.5% of the amount, worked out in accordance with the regulations, of those liabilities.

Section 6

- (3) The regulations may prescribe:
 - (a) different ways of working out for the purposes of subsection (1) the amount of levy on liabilities of ADIs in different classes prescribed by the regulations; and
 - (b) different ways of working out for the purposes of subsection (2) the amounts of liabilities of ADIs in different classes prescribed by the regulations.

6 Regulations

- (1) The Governor-General may make regulations prescribing matters required or permitted by this Act to be prescribed.
 - (2) Before the Governor-General makes a regulation affecting the imposition or amount of a levy connected with the application of Subdivision C of Division 2AA of Part II of the *Banking Act 1959* in relation to an ADI, the Minister must be satisfied the regulation will help achieve the objective in subsection (3) of this section.
 - (3) The objective is that the total amount of levy connected with the application of that Subdivision in relation to the ADI equal the excess of APRA's financial claims scheme costs for the ADI over the sum of amounts paid to APRA by the ADI in connection with that Division or in the winding up of the ADI.
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*[Minister's second reading speech made in—
House of Representatives on 15 October 2008
Senate on 16 October 2008]*

(205/08)
