AUSTRALIAN DOLLAR MEDIUM TERM NOTE (KANGAROO) PROGRAMMES

Documentation guide

Ashurst Perkins Coie Debt Capital Markets 2026

ASHURST PERKINS COIE

Contents

Introduction

This guide provides an overview for issuers of the structure, process and documentation required for issuing Australian dollar medium term notes, known as Kangaroo bonds if issued by a non-Australian issuer (**AMTNs** or **Notes**) in the Australian debt capital markets.

What is an AMTN?

An AMTN is a bond that is similar to a Euro or global medium term note except that it is:

- denominated in Australian dollars;
- created and settled in the Austraclear clearing system (through which Euroclear and Clearstream accountholders can hold entitlements; and
- issued in non-paper, registered form and governed by Australian law.

It can have a tenor of any period and is typically issued in three, five, seven and ten year tenors.

Why issue AMTNs?

In practical terms, an issue of AMTNs can be a cost-effective and easily accessible option for issuers seeking to raise funds through the debt capital markets. Overarching economic and political stability, a generally attractive Australian dollar, the geographical diversity of investors in the Australian bond market (representing both domestic and Asia-based investors) coupled with the potential for greater investment by the Australian superannuation industry provides the basis for a vibrant market.

Issuing wholesale AMTNs can also allow an issuer to reach the widest wholesale investor base in the Australian domestic markets, as Australian law-governed notes cleared through Austraclear may allow them to qualify as "assets in Australia" for the purposes of Australian insurance companies' investment needs.

Format for issuance

AMTN issuance in Australia is most commonly structured via the establishment of a wholealse debt issuance programme.

Stand-alone issuance is also an option. However given that the documentation and costs for preparing a stand-alone issuance are essentially the same as for a programme establishment, this is a less common choice. This is partly due to there being no prescriptive disclosure requirements or regulatory approvals in relation to wholesale debt issuance programme documentation. There are no regulatory requirements for the regular updating of issuer disclosure and so AMTN programmes are generally favoured over stand-alone issuance as they offer a low-maintenance platform for multiple issuances.

The majority of bond issuance in Australia is structured as wholesale issuance, in order to benefit from the exemption to the prospectus and disclosure requirements otherwise required for the issue of securities in Australia. Wholesale issuances are put together through a book build process, are mostly traded OTC and are available to wholesale and sophisticated investors. Wholesale issuances are the most cost-effective and efficient way to issue bonds in Australia. Most wholesale issuances are unlisted and issued under debt issuance programmes. Provided the requirements for an exemption from the disclosure requirements of part 6D of the Australian Corporations Act 2001 (Cth) (Corporations Act) are met, wholesale issuances do not require a prospectus. Instead, it is customary for issuers to produce a short form information memorandum that sets out the terms and conditions of the notes as well as a pro forma pricing supplement, relevant selling restrictions and taxation information. There is no requirement to produce a description of the issuer or include a risk factor section, although in practice it is usual to provide some general information on the issuer’s business. As the information memorandum for an unlisted wholesale debt issuance programme does not need to be reviewed by a regulatory authority, establishment of an Australian medium-term note or debt issuance programme can be achieved very quickly. In order to qualify for an exemption from having to produce a prospectus, the bonds must, for example, be issued to: (i) a professional investor (or “wholesale investor”) who has or controls gross assets of at least A$10m, or (ii) a sophisticated investor who purchases a minimum amount of bonds of no less than A$500,000 or who has net assets of A$2.5m or a gross income for the past two financial years of A$250,000 or more, as provided in a certificate from a qualified accountant.

For information on issuing retail bonds please contact us directly.

Issuer

An issuing entity can be the company itself, a special purpose vehicle established for the purpose of raising finance or a trust.

Registration/AFSL/listing

Registration

There are no registration requirements for an issuer to establish or issue notes under a wholesale programme. An unlisted wholesale note programme for senior note issuance and the accompanying offering document do not need to be registered with or reviewed by any regulatory body or authority, such as the Australian Securities and Investment Commission, or securities exchange in Australia.

AFSL

Most issuers of AMTNs do not need an Australian Financial Services Licence (**AFSL**) to issue AMTNs, as they are able to rely on the self-dealing exemption set out in the Corporations Act. However, an AMTN issuer who carries on a financial services business of dealing in debentures will generally be required to hold an AFSL except where they are dealing in (including issuing) their own securities.

The self-dealing exemption does not apply where a person: (a) carries on a business of investment in securities, interests in land or other investments, and (b) invests the contributions of investors after an offer or invitation to the public made on terms that the funds subscribed would be invested. Note that ASIC does not consider an offer to professional investors or to a person whose ordinary business is to buy or sell shares, debentures or interests in managed investment schemes, whether as principal or agent, as an offer to the public.

Listing

It is not common for wholesale Australian medium term notes to be listed. The large majority of AMTNs are unlisted. However, it is customary to provide in Australian medium term note programme documentation capability for notes to be listed on an issuance by issuance basis, if a listing is preferred or required for some reason. The main reason for listing a specific issue of AMTNs is to capture offshore investors (ie investors outside of Australia) who are mandated to only invest in listed securities, such as certain pension funds. In this respect, listing a specific series of AMTNs tends to come about because of a request from such an investor, sometimes by way of reverse enquiry.

The main securities exchange for the listing of securities in Australia is the Australian Securities Exchange, known as ASX. Applications for the listing of wholesale notes are made at the time of issuance. The ASX will in advance review the Programme documentation, including the terms and the conditions of the notes, however they do not provide comments on the documentation. Only the notes will receive a listing – an AMTN programme is not in itself listed. To obtain a wholesale debt listing an application form requiring certain information on the issuer, including copies of its latest audited financial statements, needs to be completed and submitted to ASX a few weeks in advance of the proposed listing date. If you would like further information on this process please let us know.


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Documentation

Establishing a wholesale, unsecured note programme (**Note Programme**) is a relatively straightforward process and involves the documentation set out below.

The documents for the establishment of a wholesale unsecured Note Programme include:

- an Information Memorandum
- a Dealer Agreement
- a Note Deed Poll
- an Agency and Registry Services Agreement

These documents are described in more detail below.

Wholesale medium term note programmes are uncommitted. They can have a debt limit or be unlimited.

Programme Documents

Information Memorandum

This is the issuer's offering document. It typically contains the general terms and conditions of the notes, a description of the security and any intercreditor arrangements, a description of the issuer and any guarantor ("disclosure"), selling restrictions and a taxation section. It is customary to incorporate by reference at least two years of the issuer's audited annual financial statements. It is not subject to any disclosure requirements. However the issuer will be responsible for ensuring that it does not contain any information, misstatement or omission that would be "misleading or deceptive", in order to avoid liability for breach under the relevant provisions of the Corporations Act.

Dealer Agreement

This document governs (i) the relationship between the issuer, the arranger of the programme and the dealers appointed to the programme or (ii) between the issuer and the note subscribers. It contains the issuer's representations, warranties, undertakings and indemnities in favour of the dealers/note subscribers, indemnity, the conditions precedent to issues and selling restrictions.

Note Deed Poll

This document constitutes the notes. It contains the issuer's covenant to pay and to otherwise comply with the terms and conditions of the notes in favour of the noteholders and meeting provisions for meetings of noteholders.

Agency and Registry Services Agreement

This document governs the relationship between the issuer and the issuing and paying agent and registrar. It is usually a standard form agreement provided by the firm that has been selected to perform issuing and paying agency and registry services.

Additional

In addition to the Programme documents listed above, the following documents are required to meet customary conditions precedent:

- a legal opinion as to capacity, authority and enforceability
- copies of board resolutions authorising the Programme and issuances of notes - confirmation of ratings from the relevant rating agencies if the issuer is rated
- if the Programme is secured, any beneficiary accession deed or recognition certificate or equivalent from an issuer's existing security trustee, as applicable, relating to the accession of the Note Trustee as a beneficiary of the security trust

Other conditions precedent or corporate documentation may be required.

Issue Documents

Once the Programme is established, note issuances can take place. Note issuance documents comprise:

- a **Pricing Supplement**, which provides the pricing terms for an issue of notes;
- a **Subscription Agreement**, which provides the subscription terms for an issue of notes (the Pricing Supplement and the Subscription Agreement are known as the **Issue Documents**); and
- payment and settlement instructions for the Issue and Paying Agent.

If the Programme is secured, any beneficiary accession documents will be delivered at the time of issuance, as they will reference the series of notes being issued.

Parties and costs

Establishing a wholesale, unsecured note programme (**Note Programme**) is a relatively straightforward process and involves the documentation set out below.

The main parties

- **Arranger and Dealers** – an arranger "arranges" the Programme, primarily through reviewing and settling the Programme documentation and providing guidance on issuing under the Programme. Other dealers may be appointed by the issuer to the Programme permanently at a Programme level or, for a syndicated issue of notes, as "dealers for a day". It not necessary though to have a dealer panel or any permanent arrangers or dealers.
- **Lead Manager/s** – this will be the arranger and/or a dealer/s who will manage an issue of notes under the Programme. They are not involved, in this function, in the initial establishment of the Programme unless they are appointed as the arranger or a permanent dealer.
- **Issuing and Paying Agent** – the issuing and paying agent arranges the initial lodging of notes in the Austraclear system and facilitates payments to noteholders in relation to the notes, such as payments of interest and principal.
- **Registrar** a registrar will need to be appointed to maintain a register of noteholders, which is be kept in Australia (usually same entity as the Note Trustee and Issue and Paying Agent)
- **Austraclear** – Australia's clearing system, in which notes are initially lodged and then subsequently traded. The Issue and Paying Agent will liaise with Austraclear in relation to the Programme.

Costs

- **Dealer/Lead Manager fees:** these are fees charged by the arranger of the Programme or lead manager of an issue of notes and are typically deducted from the proceeds of the note issue. They are documented in a mandate letter or fee side letter.
- **Counsel fees:** the legal fees of issuer legal counsel and any fees of counsel appointed by the Arranger/lead manager.
- **Registrar/Agent fees:** these are usually annual fees charged by the Registrar/Agent for performing trustee, registry and paying agency services to an issuer. A fee per drawdown of notes under a programme is charged in addition by the Agent.
- **Rating agency costs:** if applicable to a rated issuer, there is usually a cost involved in obtaining proof of rating of the Programme or an issue of notes from the relevant rating agency
- **Austraclear fees if not included in the Agent's fees**

Timing

The timing for establishing a Programme is typically four to six weeks. It can be achieved in a shorter timeframe if all parties are committed to do so, as the programme documentation follows a format that is accepted as the standard for the Australian market. Negotiations tend to focus on the terms and conditions of the notes, such as the events of default, any interest step-ups or change of control provisions and around the representations, warranties and indemnities in the dealer agreement.

It is important to ensure (i) that all internal authorisations for the issuer are obtained and resolutions passed before the first issuance of notes under the Programme (in practice, these should be in place before the Programme establishment is signed) and if applicable (ii) ratings are obtained for the Programme and/or notes.

Considerations

Factors that impact timing include:

- Drafting of any disclosure for the Information Memorandum – this will depend on how the writing of the disclosure will be resourced and managed internally by the issuer. AMTN Programmes are usually "disclosure-lite" so unless there are security or intercreditor arrangements to describe, or helpful profiling of the issuer if required, little disclosure is included.
- Obtaining ratings.
- Timing of Board approval process and procedure
- Timing of engagement with the Dealers and any roadshow or investor presentation timetable.

Set out below are the basic steps involved for establishing a Programme.

Step	Party
Draft the Programme Documents and identify commercial terms to include, in particular in relation to **the Conditions of the notes** to conform to selected covenants, as appropriate or relevant, to those in NSW	Issuer, counsel
If required, **draft the disclosure** in the Information Memorandum, including a description of the security trust and intercreditor provisions	Issuer, with counsel assisting if required
Prepare and pass board resolution and corporate authorisations authorising the establishment of the Programme and issuance of notes	Issuer, counsel
IF APPLICABLE, contact rating agencies to obtain rating for updated Programme and future issuances of notes (only if Issuer is rated)	Issuer, rating agencies
Appoint arranger and involve them in the Programme establishment to review the documentation and arrange investor meetings	Issuer and banks
Appoint Registrar/Issue and Paying Agent and settle the Issue and Paying Agency Agreement	Issuer, counsel and trustee/ agency company
Agree documentation and **sign Programme Establishment**	All parties

Key contacts

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Caroline specialises in advising corporates and financial institutions on the full scope debt capital markets transactions. Caroline has practised in debt capital markets in Australia, the UK and Asia for the past 19 years. She is a DCM expert and has spent her career in the DCM practices of Clifford Chance in London and APC in Sydney. Her practice covers AMTN programmes, EMTN programmes, structured note programmes, corporate trust and agency, stand-alone issuance, USPP and private placements, convertible bonds and other hybrid securities, regulatory capital, and liability management. Caroline represents major corporate issuers and prominent bank issuers. Caroline is admitted to practice in New South Wales and in England and Wales.

Caroline is ranked as:

- "Leading Individual" in Legal 500
- Individually ranked Band 2 in Chambers.

Caroline is recognised as:

- IFLR Woman Leader 2022, being the leading female lawyer in her practice area in Australia
- Asia Future Leader 2021 by IFLR
- Winner of Euromoney's Women in Business Law for 2019

Relevant experience

Oncor Electric Delivery Company LLC: acting for the largest transmission and distribution electric utility in Texas as issuer on the establishment of an Australian dollar "Kangaroo" secured note issuance programme and issue of A$750,000,000 5.70% Senior Secured Notes due 24 June 2033.

Citibank, N.A. and Citigroup Inc.: acting for Citibank and Citigroup as issuers on the establishment of an A$ note issuance "Kangaroo" programme for the issuance of senior and subordinated notes.

EnBW AG: acting for EnBW, one of Germany's and Europe's largest electricity generation company as issuer on the establishment of an Australian dollar "Kangaroo" note issuance programme and dual tranche issues of (i) A$350,000,000 5.302 per cent. Green Notes due 2029 and A$650,000,000 6.048 per cent. Green Notes due 2034, and (ii) A$250,000,000 5.197 per cent. Notes due 2031 and A$300,000,000 5.7923 per cent. Notes due 2036.

Acciona SA: acting for Acciona, a major international Spanish infrastructure and energy conglomerate, as issuer on the establishment of an Australian dollar "Kangaroo" note issuance programme.

APA: acting for APA, one of Australia's largest gas pipeline infrastructure providers, as issuer on the establishment of an Australian dollar medium term note programme and three tranche issue of A$500 million 6.424% Senior Notes due 2036, A$600 million Floating Rate Subordinated Notes due 2056 and A$400 million Fixed-to-Floating Rate Reset Subordinated Notes due 2056

NextDC: acting for a consortium of banks as dealers on the establishment of Subordinated Note Issuance Programme and issue by NextDC, an Australian data centre company, on the issue of A$750,000,000 Floating Rate Subordinated Notes due 2030.

Qualifications

- Admitted to the Supreme Court of NSW.
- Admitted in England and Wales.
- BPP Law School (LPC, Distinction).
- Bachelor of Laws (First Class), King's College, University of London.
- Bachelor of Arts (Political Science) (Honours), University of Western Australia.

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Victoria is a Senior Associate in our Global Markets practice in Sydney. Victoria has practised in debt capital markets in Australia and Asia for the past nine years. Victoria advises financial institutions and corporates on private and public bond transactions. Her range of practice includes standalone bonds, medium term note programmes, US private placements, liability management exercises, equity-linked transactions and structured products. Victoria is also experienced in advising corporate trustees and agents across a full range of international and domestic bond issues.

Relevant experience

Oncor Electric Delivery Company LLC: acting for the largest transmission and distribution electric utility in Texas as issuer on the establishment of an Australian dollar "Kangaroo" secured note issuance programme and issue of A$750,000,000 5.70% Senior Secured Notes due 24 June 2033.

Citibank, N.A. and Citigroup Inc.: acting for Citibank and Citigroup as issuers on the establishment of an A$ note issuance "Kangaroo" programme for the issuance of senior and subordinated notes.

Canadian issuers OMERS, PSP Capital, CPDQ and CPPIB Capital Inc: acting for TD Securities, Royal Bank of Canada and Australia and New Zealand Banking Group Limited on the establishment of AMTN programmes and issuances thereunder for each of these Canadian "Kangaroo" issuers.

CaixaBank, S.A.: acting for CaixaBank, S.A., a major Spanish bank, as issuer on the establishment of an A$ note issuance "Kangaroo" programme and issuance of A$600,000,000 Floating Rate Notes due 2031 and A$400,000,000 5.801% Notes due 2031.

E.ON SE: acting for a major German electricity producer and distributor as issuer on the establishment of an Australian dollar "Kangaroo" medium term note programme for green bond issuance.

BP plc: acting for BP on the establishment of its A$ note issuance 'Kangaroo" programme and issue of A$400,00,000 5.439% Notes due 2034 and A$600,000,000 4.751% due 2029 by BP Capital Markets plc, guaranteed by BP plc.

NatWest Group: advising a consortium of dealers in relation to the establishment of NatWest Group plc's A$5 billion debt issuance "Kangaroo" programme.

Banque Fédérative du Crédit Mutuel (BFCM): acting for the Dealers on the issuance of A$ Fixed Rate Senior Preferred Notes due 6 January 2031 under its €90 billion EMTN programme.

Qualifications

- Bachelor of Laws, London School of Economics and Political Sciences
- Postgraduate Certificate in Laws, The University of Hong Kong
- Admitted to practice in Hong Kong.
- English, Cantonese and Mandarin (fluent)

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Jennifer is an Associate in our Global Markets practice in Sydney. Jennifer has practised in debt capital markets in Australia and Asia for the past six years. Jennifer advises financial institutions and issuers on private and public bond transactions. Her range of practice includes standalone bonds (including with credit enhancement structures such as standby letter of credit and keepwell arrangements), medium term note programmes, US private placements, regulatory capital instruments and secured notes. Jennifer is also experienced in advising corporate trustees and agents across a full range of international and domestic bond issues, as well as liaising with regulatory bodies such as the Hong Kong Stock Exchange and the Singapore Exchange in relation to the listing of debt securities.

Relevant experience

NatWest Group: advised Australia and New Zealand Banking Group, Citigroup, Commonwealth Bank of Australia, Deutsche Bank AG, Mizuho Securities Asia, MUFG Securities Asia, National Australia Bank, NatWest Markets, Royal Bank of Canada, The Toronto-Dominion Bank, UBS AG and Westpac Banking Corporation on NatWest Group's A$ Debt Issuance "Kangaroo" Programme.

Nationwide Building Society: advised Australia and New Zealand Banking Group, Barclays, Barrenjoey, Nomura and Royal Bank of Canada on the issuance of A$550,000,000 Floating Rate Senior Preferred Notes and A$200,000,000 Fixed Rate Senior Preferred Notes due 2031 issued by Nationwide Building Society under its A$ Debt Issuance "Kangaroo" Programme.

CaixaBank: advised CaixaBank on its issuance and listing of A$600,000,000 Floating Rate Ordinary Senior Notes and A$400,000,000 Fixed Rate Ordinary Senior Notes due 2031 under its A$ Note Issuance "Kangaroo" Programme.

Qantas: advised Qantas on its issuance of A$500,000,000 Fixed Rate Notes due 2036 under its A$ Debt Securities Programme.

Qualifications

- Bachelor of Commerce, The University of Sydney
- Bachelor of Laws, The University of Sydney
- Master of Laws, New York University
- Master of Taxation, The University of Sydney
- Admitted to practice in the State of New York, United States and New South Wales
- English and Mandarin (fluent)

ABOUT ASHURST PERKINS COIE

Ashurst Perkins Coie is the global law firm for the future economy.

With more than 3,500 client-facing practitioners across 52 offices worldwide, we advise a broad range of clients, and have a distinct strength in technology, energy & infrastructure, and financial services—three sectors at the forefront of economic transformation.

Combining global scale, sector insight, and technological capability, Ashurst Perkins Coie helps clients unlock opportunity with market-leading experience in complex transactions, litigation, and regulatory matters.

We support clients through a shifting landscape where technology, and AI in particular, is both an accelerator and disruptor to their business opportunities and challenges and is reshaping how energy, data, and capital move across markets.

Our strengths have earned our lawyers recognition across the profession, and more importantly, the trust of our clients. Our people are our greatest asset, advising clients on complex, cross-border matters and collaborating seamlessly across markets and practices. We offer a global platform for career-defining work and an opportunity to help shape a firm with the culture and confidence to compete at the highest level.

For Ashurst Perkins Coie, innovation is our tradition. We have a long legacy of helping clients through moments of transformation with the insight to help them stay ahead.

- Ashurst Perkins Coie
- Ashurst Perkins Coie Advance Global Delivery Centres
- Part of the Ashurst Perkins Coie Group; new names pending registration

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[4] ADTLaw LLC (Singapore Formal Law Alliance)
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Design Ref: R017805 Aug 26