

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

THE SENATE

COMMONWEALTH BANKS AMENDMENT BILL 1993

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendment to be moved on behalf of the Government

(Circulated by authority of the Treasurer, the Hon John Dawkins, MP)

OUTLINE AND NOTE ON THE AMENDMENT

This amendment amends the *Commonwealth Banks Amendment Bill 1993*.

2. Clause 13 explains that the Bill will allow shares in the Commonwealth Bank to be held by a banking entity that is a depositary under an American Depository Receipts (ADR) scheme.
 3. Clause 14(a) amends section 10A of the Banks (Shareholdings) Act 1972 to exempt banks that are acting as depositaries under an ADR scheme from the general prohibition on bank holdings of shares in the Commonwealth Bank. This will allow the sale of CBA shares in the USA via an ADR scheme which will widen the range of US investors able to participate indirectly in the sale of the Commonwealth's shares in the CBA from its current shareholding of around 70 per cent to 50.1 per cent. Specifically, US investors who are otherwise prohibited from investing in foreign shares will be able to make indirect investments in the Commonwealth Bank through their holding of ADR's issued to investors by a US bank, which will act as a depositary for Commonwealth Bank shares. The depositary bank is the registered owner of the shares. Currently subsection 10A (2) gives an exemption to an interest which a banking entity has only because it is, or because an associate of it is, a trustee or manager of a fund and this amendment is providing a corresponding type of exemption.
 4. This exemption is subject to the regulations. This is designed to safeguard the exemption from possible abuse of ADR schemes.
 5. Clause 14(b) ensures that the general provision restricting any person (as defined under the Act) to no more than 5 per cent of the voting shares of the Commonwealth Bank is extended to banks that are depositaries under American Depository Receipts schemes.
- FINANCIAL IMPACT
6. There is no financial impact as a result of the proposed amendment.



9 780644 268424

