



HERBERT  
SMITH  
FREEHILLS

# Deed of Amendment ING Direct Superannuation Fund

ABN 13 355 603 448

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**Diversa Trustees Limited**

ABN 49 006 421 638

**ING Bank (Australia) Limited**

ABN 24 000 893 292



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## Deed of Amendment

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Date ► 5<sup>th</sup> October 2016

Between the parties

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Trustee

**Diversa Trustees Limited**

ABN 49 006 421 638 of Level 20, 357 Collins Street, Melbourne VIC 3000

**(Trustee)**

Promoter

**ING Bank (Australia) Limited**

ABN 24 000 893 292 of 140 Sussex Street, Sydney NSW 2000

**(Promoter)**

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Recitals

- 1 The superannuation fund known as the ING Direct Superannuation Fund (**Fund**) was established by a trust deed dated 13 June 2012 as amended from time to time (**Trust Deed**).
- 2 The Trustee is the trustee of the Fund.
- 3 Under clause 15.1(a) of the Trust Deed, the Trustee may amend the Trust Deed if certain conditions are met.
- 4 The Trustee wishes to amend the Trust Deed in the manner set out in this deed of amendment.
- 5 The Trustee is satisfied that the conditions in clause 15 of the Trust Deed are met.
- 6 This deed of amendment shall be construed only as operating to amend the Trust Deed and not as establishing a new or different superannuation fund.



## 1 Definitions and interpretation

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### 1.1 Definitions

The meanings of the terms used in this document are set out below.

Term	Meaning
<i>Effective Date</i>	the date of execution of this deed of amendment.

### 1.2 Interpretation

In this deed, the interpretation provided in the Trust Deed has the same interpretation when used in this deed of amendment.

### 1.3 Trust Deed definitions

Unless otherwise defined in this deed of amendment, a word or phrase defined in the Trust Deed has the same meaning when used in this deed of amendment.

## 2 Operative time

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This deed of amendment takes effect on and from the Effective Date.

## 3 Amendment to the Trust Deed

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### 3.1 Amendments

The Trust Deed is amended as follows:

- (a) Delete the words "The Trust Company (Superannuation) Limited" wherever appearing in the Trust Deed and substituting with "Diversa Trustees Limited".
- (b) Delete the words "Level 3, 530 Collins Street, Melbourne VIC 3000" wherever appearing in the Trust Deed and substituting with "Level 20, 357 Collins Street, Melbourne VIC 3000".
- (c) Rule 3(b) of Schedule 1 of the Trust Deed is replaced with the following new rule 3(b):
  - "(b) Except in the circumstance described in rule 3(a) and subject to any determination made by the Trustee under clause 5.2(b)(4):
    - (1) except for rule 3(b)(2), a Member is entitled to be paid a benefit equal to the whole or part of the Member's Account balance in the circumstances permitted by the Relevant Law; or



- (2) in relation to an application by a Member for an early release of benefits due to severe financial hardship, the Trustee may (but is not obliged to) pay all or part of the Member's Account balance when permitted by the Relevant Law."
- (d) Insert a new rule 3(c) after rule 3(b) of Schedule 1 of the Trust Deed as follows:
  - "(c) When assessing an application for an early release of benefits due to severe financial hardship under rule 3(b)(2), the Trustee may from time to time determine the conditions for the assessment when permitted by the Relevant Law, including continuous membership of the Fund for no less than 12 months."
- (e) Rule 3(b) of Schedule 2 of the Trust Deed is replaced with the following new rule 3(b):
  - "(b) Except in the circumstance described in rule 3(a) and subject to any determination made by the Trustee under clause 5.2(b)(4):
    - (1) except for rule 3(b)(2), a Member is entitled to be paid a benefit equal to the whole or part of the Member's Account balance in the circumstances permitted by the Relevant Law; or
    - (2) in relation to an application by a Member for an early release of benefits due to severe financial hardship, the Trustee may (but is not obliged to) pay all or part of the Member's Account balance when permitted by the Relevant Law."
- (f) Insert a new rule 3(c) after rule 3(b) of Schedule 2 of the Trust Deed as follows:
  - "(c) When assessing an application for an early release of benefits due to severe financial hardship under rule 3(b)(2), the Trustee may from time to time determine the conditions for the assessment when permitted by the Relevant Law, including continuous membership of the Fund for no less than 12 months."
- (g) Insert a new rule 3.3 after rule 3.2 of Schedule 4 of the Trust Deed as follows:
  - "3.3 Severe financial hardship"**
    - (a) Except in the circumstance described in rule 3.1 and subject to any determination made by the Trustee under clause 5.2(b)(4):
      - (1) except for rule 3.3(a)(2), a Member is entitled to be paid a benefit equal to the whole or part of the Member's Account balance in the circumstances permitted by the Relevant Law; or
      - (2) in relation to an application by a Member for an early release of benefits due to severe financial hardship, the Trustee may (but is not obliged to) pay all or part of the Member's Account balance when permitted by the Relevant Law.
    - (b) When assessing an application for an early release of benefits due to severe financial hardship under rule 3.3(a)(2), the Trustee may from time to time determine the conditions for the assessment when permitted by the Relevant Law, including continuous membership of the Fund for no less than 12 months."

### **3.2 Effective time for amendments**

The amendments contained in clause 3.1 of this deed take effect on and from the Effective Date.

### **3.3 Confirmation**

On and with effect from the Effective Date, each party is bound by the Trust Deed as amended by this deed.

## **4 General**

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### **4.1 No effect on accrued benefits**

Nothing in this deed of amendment reduces, or adversely alters, the amount of a benefit payable to or in respect of a Member, or the rights or interests of a Member in relation to an entitlement accrued at the Effective Date.

### **4.2 No resettlement of trust**

This deed of amendment will be construed only as operating to amend the Trust Deed and not establishing a new or different trust.

### **4.3 Governing law and jurisdiction**

- (a) This deed is governed by the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

### **4.4 Further action**

Each party must do all things and execute all further documents necessary to give full effect to this deed.



HERBERT  
SMITH  
FREEHILLS


## Signing page

Executed as a deed


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Executed by  
**Diversa Trustees Limited** ABN 49  
006 421 638 in accordance with section  
127(1) of the *Corporations Act 2001* (Cth).

sign here ►   
Company Secretary/Director  
print name **Robert Good**

sign here ►   
Director  
print name **MARK NICHOLAS CEROKE**

Signed sealed and delivered by  
**ING Bank (Australia) Limited**  
ABN 24 000 893 292  
by

sign here ►   
Company Secretary/Director  
print name **Rod Saville**  
**Head of Legal and Compliance**  
Company Secretary

sign here ►   
Director  
print name **JOHN ARNOTT**