

Bankwest

# Investment & Transaction Accounts

Terms and Conditions

4 April 2017

## Terms and Conditions

These Terms and Conditions apply to all Investment and Transaction Accounts with us and will be part of the Product Disclosure Statement (PDS). The PDS is comprised of the following documents:

- these **Terms and Conditions**;
- the **Account Access Conditions of Use**;
- a **Product Schedule**;
- the **Banking Services Rights and Obligations brochure**; and
- the **Your Guide to Banking Fees brochure**.

You should read all of these documents carefully and retain them for future reference. Copies of each of the documents can be made available to you on request from our Customer Help Centre or Customer Service Centres or can be viewed on our website **[www.bankwest.com.au](http://www.bankwest.com.au)**.

**Enquiries:** Customer Help Centre **13 17 19**.

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## 1. Definitions

The following expressions have the following meanings:

**Account Authority** means the account-opening documentation completed in respect of an account.

**attorney** means a person authorised under a power of attorney to act on your behalf.

**business day** means a week day including local public holidays but excluding holidays observed on a national basis.

**Customer Service Centre** means a Bankwest-branded Customer Service Centre.

**Debit User** means the third party authorised by you under a Direct Debit Request and Direct Debit Request Service Agreement (or similar periodic authority).

**Mistaken Internet Payment** means a payment through a 'Pay Anyone' internet banking facility where funds are paid into the account of an unintended recipient, being an individual, as a result of the BSB number and/or account number being incorrect due to an error by the person initiating the transaction or that person having been given the wrong BSB number and/or account number. This does not include:

- payments made using BPAY; or
- payments made using a facility designed primarily for use by a business and established primarily for business purposes.

**Mortgage Saver Facility** means the feature for linking

an Investment and Transaction Account to a loan account as set out in clause 12.

**Product List** means the product list document relevant to the particular Investment and Transaction Account selected by you and nominated in the Account Authority. Product Lists apply to Bankwest-branded accounts which were opened with us before 11 March 2004.

**Product Schedule** means the Product Schedule or Product List (if your account was opened with us

before 11 March 2004) relevant to the particular Investment and Transaction Account selected by you and nominated in the Account Authority.

**Supplementary Letter** (for applicable accounts) means the letter we send to you specifying any personalised interest rate margin, fees or charges for the account.

**we, us, the Bank** and **Bankwest** mean Bankwest, a division of Commonwealth Bank of Australia ABN 48 123 123 124 AFSL/Australian credit licence 234945 and its successors and assigns.

**Welcome Letter** (for applicable accounts), means the letter we send to you at or about the time your account is opened specifying account details including information about applicable interest rates.

**you** means the account holder nominated in the Account Authority and, if more than one person comprises the account holder, means each of them separately and all of them jointly.

## 2. Your agreement

2.1 When you open a Bankwest-branded Investment and Transaction Account with us, your agreement with us in relation to your account comprises:

- (a) these Terms and Conditions;
- (b) the Product Schedule specific to the particular Investment and Transaction Account you have selected;
- (c) Account Access Conditions of Use;
- (d) Your Guide to Banking Fees brochure;
- (e) the Welcome Letter (if applicable);
- (f) the Supplementary Letter (if applicable); and
- (g) the Account Authority signed by you.

You should read each of these documents carefully.

2.2 If there is any inconsistency between these Terms and Conditions and the Product Schedule, the Product Schedule prevails to the extent of the inconsistency.

### 3. Code of Banking Practice

- 3.1 The Code of Banking Practice applies to your Investment and Transaction Account.
- 3.2 General descriptive information about our banking services is available on request in the form of our 'Banking Services Rights and Obligations' brochure. It includes, in particular, information about account opening procedures, our obligations regarding the confidentiality of your information, our complaint handling procedures, bank cheques, and on the advisability of you reading the terms and conditions applying to our banking services and of informing us promptly when you are in financial difficulty.

### 4. Deposits

- 4.1 Minimum deposit amount requirements may apply to the opening and/or operation of an Investment and Transaction Account and, if so, these are stated in the Product Schedule.
- 4.2 If a cheque is deposited to the account, the amount of the cheque will be credited on the business day it is received by us but it will not be available to you until it is cleared.
- 4.3 If a cheque which is deposited is dishonoured, we will debit the account with its amount and charge a dishonour fee. We will inform you by letter of the fee charged.
- 4.4 If a person reports that a Mistaken Internet Payment has been made from the person's account to your account:
  - (a) you agree that we may inform that person's financial institution whether or not your account has sufficient funds to cover the payment; and
  - (b) provided there are sufficient credit funds in your account to cover the Mistaken Internet Payment and we are satisfied that a Mistaken Internet Payment has been made to your account:

- (i) if the person made the report within 10 business days of making the payment, we may immediately debit your account for the amount of the Mistaken Internet Payment; and
  - (ii) if the person made the report between 10 business days and 7 months of making the payment, we may immediately freeze those funds and, after giving you 10 business days to establish that you are entitled to the funds, debit your account for the value of the Mistaken Internet Payment.
- (c) if we debit your account or otherwise receive funds from you for the value of the Mistaken Internet Payment, we will return the funds to the person or the person's financial institution.
- (d) if we are satisfied that a Mistaken Internet Payment has occurred but there are not sufficient credit funds in your account, we will use reasonable endeavours to retrieve the funds from you.
- 4.5 Any cheques drawn on or deposited to your account, or bank cheque or other document deposited to your account or delivered to us in connection with a transaction on your account, becomes our property when we present the cheque or other document for payment (even if it is dishonoured) or when the transaction is otherwise complete but you retain all rights against the drawer and any endorser of any dishonoured cheque.

## 5. Credit interest

- 5.1 The Product Schedule, Welcome Letter and/or Supplementary Letter will state whether credit interest is payable in respect of your account and, if so, the applicable interest rate and frequency of payment. Notwithstanding that credit interest may generally be payable in respect of your account, you will not be entitled to any interest if you have activated a 'Mortgage Saver Facility' and you have linked

your account to a loan account in accordance with clause 12.

- 5.2 Interest to which you are entitled will be calculated daily by multiplying the amount of the end of day credit balance of your account by the interest rate and dividing the result by the number of days in the year.
- 5.3 We will pay any accrued and unpaid interest on closure of your account.
- 5.4 You may ask us to pay your interest:
- (a) by crediting it to your account; or
  - (b) by crediting it to another Bankwest-branded Investment and Transaction Account with us.
- If you have asked us to pay your interest to another Investment and Transaction Account and we are unable to credit that account for any reason, we will credit this account.
- 5.5 If you do not lodge your Tax File Number, your ABN (if you have one), or an appropriate exemption with us, by law we must deduct withholding tax at the highest marginal tax rate plus the Medicare Levy from the interest payable to you. If you are not an Australian resident for tax purposes, we are required by law to deduct non-resident withholding tax from the interest payable to you.
- 5.6 If we debit your account in reversing a Mistaken Internet Payment, we may adjust any interest debited or credited to the extent it is affected by the Mistaken Internet Payment.

## 6. Account facilities

Your Investment and Transaction Account may provide you with access to a number of facilities. The Product Schedule will state which, if any, of the following facilities are available with your account:

- (a) Cheque Access;
- (b) Overdraft Facility;
- (c) Periodical Payments and/or Direct Debit Facility;



- (d) Bankwest Online Banking;
- (e) Phone Banking;
- (f) Debit Mastercards and/or other Bankwest Debit Cards;
- (g) 'Mortgage Saver Facility'; and
- (h) Sweep Facility.

## 7. Cheque access

- 7.1 The following terms and conditions apply if you have cheque access for your account.
- 7.2 It is your responsibility to safeguard your cheque book from loss, theft or unauthorised use. You must:
- (a) keep your cheque book under secure control and in a safe place at all times;
  - (b) never give your cheque book or an incomplete cheque to any person;
  - (c) read your periodic statement carefully and notify us promptly if it contains any entry which you suspect may represent an unauthorised transaction; and
  - (d) contact us immediately if you become aware that your cheque book or a cheque has been lost, stolen or used without your authority.
- 7.3 When you write a cheque you have a duty to fill it out carefully so that nobody else can alter it. You must:
- (a) write the amount in both words and figures and never leave a gap between the words or figures;
  - (b) begin the amount in words as close to the left hand side of the cheque as possible and write the amount in figures as close as possible to the dollar (\$) sign;
  - (c) always write cheques in ink which cannot be rubbed out and never in pencil;
  - (d) never sign a cheque until you have filled it out completely; and

- (e) countersign any alteration you make with your full signature.
- 7.4 You will be liable for all losses caused by your failure to observe the duties specified in clauses 7.2 and 7.3. However in no case will you be liable where it is shown that the loss was caused by the fraudulent or negligent conduct of our employees or agents or that the same cheque was debited more than once to the account.
- 7.5 You may ask us to stop payment on a cheque but we cannot act on your instructions if we receive them after the cheque has been paid. You may give your instructions in writing or verbally but, if given verbally, they must be confirmed in writing. We may charge you a fee for stopping payment of a cheque and may debit your account with the amount of the fee. We will inform you by letter of the fee charged.
- 7.6 You may cash cheques at any of our Customer Service Centres. You must make prior arrangements with us before cashing a cheque at a Customer Service Centre other than where your account is based. We may charge a fee for this service.
- 7.7 Our Banking Services Rights and Obligations brochure sets out general descriptive information about:
  - (a) the time generally taken for clearing a cheque and the manner in which a cheque may be specially cleared;
  - (b) the effect of crossing a cheque, the meaning of 'not negotiable' and 'account payee only' and the significance of deleting 'or bearer' when any of these expressions appear on a cheque;
  - (c) how and when a cheque may be stopped;
  - (d) how a cheque may be made out in order to reduce the risk of any unauthorised alteration; and
  - (e) the circumstances under which cheques may be dishonoured including information on postdated and stale cheques.

7.8 Any cheques drawn on or deposited to your account, or bank cheque or other document deposited to your account or delivered to us in connection with a transaction on your account, becomes our property when we present the cheque or other document for payment (even if it is dishonoured) or when the transaction is otherwise complete but you retain all rights against the drawer and any endorser of any dishonoured cheque.

## 8. Overdrawn accounts

- 8.1 Unless an Overdraft Facility is available with your account and unless we have agreed to provide an Overdraft Facility to you, you must not overdraw your account. We are not obliged to honour cheques or to give effect to any other payment instruction from you which would overdraw the account or which would exceed any agreed credit limit on the account.
- 8.2 If a cheque written on the account, or a periodical payment or other direct debit from an account, causes the account to become overdrawn, the payment may be dishonoured and a fee will be charged as stated in the Product Schedule or Your Guide to Banking Fees brochure.
- 8.3 If the account has no Overdraft Facility and it becomes overdrawn, debit interest will be charged to the account. We calculate debit interest daily by multiplying the overdrawn balance of your account by the debit interest rate stated in the Product Schedule, Welcome Letter or any Supplementary Letter and by dividing the result by the number of days in the year. Debit interest is calculated up to the second-last business day of the month and will be debited to your account on the last business day of the month.
- 8.4 If an account has an Overdraft Facility and the agreed overdraft limit is exceeded, interest on the excess will be charged in accordance with the debit interest rate stated in the Product Schedule,

Welcome Letter or any Supplementary Letter payable in respect of an overdrawn amount.

- 8.5 Should we honour a cheque or a payment instruction causing your account to become overdrawn, or an overdraft limit under an Overdraft Facility to be exceeded, you must return the account to a positive balance or to a balance within the agreed overdraft limit immediately, as relevant. We may charge you a fee for honouring the cheque or other payment instruction. Should we allow the account to become overdrawn or any agreed overdraft limit to be exceeded, we are not to be taken to have offered to provide, or to increase the limit of, an Overdraft Facility in respect of the account.
- 8.6 You may request in writing that we debit any debit interest payable in connection with the account to another Bankwest-branded Investment and Transaction Account with us in the same name and capacity, provided that the request relates to all and not a part of any debit interest. If for any reason we are unable at any time to debit that second account as requested, we will debit the first account. You may, by further written request, withdraw your instruction.

## 9. Periodical Payments

- 9.1 If the Product Schedule states that Periodical Payments are available in connection with your account, you may at any time authorise us in writing to debit your account with periodical payments. This service allows you to transfer funds from your account to other accounts held with us or with another financial institution, whether held by you or any other person, or to instruct us to make payments to third parties by way of bank cheque or telegraphic transfer.
- 9.2 It is your responsibility to ensure that you have sufficient cleared funds in the account to satisfy the periodical payments to be made by us in accordance with your periodic payment authority.

- 9.3 If the payment method involves a transfer to a nonBankwest-branded account, a bank cheque or telegraphic transfer, our usual fees for these services will apply and the amount will be debited to the account.
- 9.4 We may withdraw this service, or refrain from acting in accordance with any periodic payment authority you give us, at any time at our sole discretion. If we do, we will inform you in writing. In that event you should make alternative payment arrangements with any third party who may be affected by the withdrawal of the service. Otherwise, the third party may no longer be able to provide you with the goods or services for which funds were to be debited.

## 10. Direct Debit Facility

- 10.1 If the Product Schedule states that a Direct Debit Facility is available in connection with your account, you may, at any time, authorise a third person (a **Debit User**) to debit funds from your account. The terms and conditions of the Debit User's authority will be set out in the Direct Debit Request and Direct Debit Request Service Agreement (or similar periodic authority) that you complete with the Debit User.
- 10.2 We will accept an instruction from you to cancel a Direct Debit Request and will act on that instruction by promptly informing the appropriate parties. We will also take and promptly process any complaint by you that a debit to your account was unauthorised or was otherwise irregular. However, we suggest that you also contact the Debit User with your query, complaint or cancellation instruction in accordance with the terms of the Direct Debit Request and Direct Debit Request Service Agreement.
- 10.3 If your account number changes or your account is closed, we will be unable to continue processing direct debits to your account and

you should make alternative payment arrangements with the Debit User. Otherwise, the Debit User may no longer be able to provide you with the goods or services for which funds were to be debited.

10.4 It is your responsibility to ensure that you have sufficient cleared funds in the account to satisfy the debit payments to be made in accordance with all Direct Debit Requests you authorise.

## 11. Facilities governed by the Bankwest Account Access Conditions of Use

If the Product Schedule states that any of the following Bankwest facilities are available with your account, your use of these facilities will be governed by the Bankwest Account Access Conditions of Use:

- Bankwest Online Banking;
- Phone Banking; and
- Bankwest Debit Cards (including Debit Mastercards).

## 12. Mortgage Saver Facility

12.1 If the Product Schedule states that a Mortgage Saver Facility is available with your account, you may link that account with a loan account with us which we advise is eligible to be nominated by you for that purpose. Your Investment and Transaction Account and the nominated loan account must be in the same name(s) and capacity(ies).

12.2 Notwithstanding any other provision of these Terms and Conditions and the terms of the Product Schedule, if you have linked a loan account (the **Loan Account**) to your Investment and Transaction Account:

- (a) we will not pay interest on the amount of the credit balance of the Investment and Transaction Account (the **Offset Account**) even if:
  - (i) the amount of the credit balance of the Offset Account exceeds the amount of the

debit balance of the Loan Account; or  
(ii) the loan contract is terminated and the Loan Account is closed.

- (b) your interest charges on the Loan Account will be reduced each day by the offset amount (**Offset Amount**)
- (c) The Offset Amount will be calculated by multiplying the amount of the credit balance of the Offset Account on the day (except to the extent that its amount is greater than the amount of the unpaid daily balance of the Loan Account) by x% and then by the daily percentage rate in respect of that Loan Account, where x% is the percentage stated in the Schedule for the loan contract of the Loan Account as the 'Offset Account Percentage'.

12.3 You acknowledge that we have not given you any advice on taxation or other matters related to the Mortgage Saver Facility and we recommend that you obtain independent professional advice in respect of its operation in your circumstances.

## 13. Sweep Facility

13.1 If the Product Schedule states that a Sweep Facility is available in connection with your account and you request that facility, your use of the facility will be governed by the terms of the Sweep Facility authority you give to us.

13.2 The Sweep Facility operates as an automatic periodic transfer of funds only between nominated Bankwest branded accounts held with us in the same name(s) and capacity(ies).

## 14. Statements of account

14.1 We will provide a statement of your account at least every six months if there has been a transaction during that period. A Paper Statement Fee may apply.

You may request more frequent statements.

- 14.2 You must check your statements of account carefully as soon as you receive them and immediately notify us of any errors, omissions or unauthorised transactions. You are required to keep copies of all vouchers, dockets, receipts and transaction records so that you can do this.
- 14.3 If you request extra copies of your statement when it's issued or a copy of a statement previously issued, we may charge you a fee.
- 14.4 You may order a statement at any time from any of our Customer Service Centres, through selected ATMs, by calling the Customer Help Centre or, if they are available to you, by using Phone Banking or Bankwest Online Banking.
- 14.5 Amounts shown on your statement of account will be expressed in Australian currency.

## 15. Changes to terms and conditions

- 15.1 We may at any time without your consent change the terms and conditions applying to your account (including in respect of fees and interest rates). Circumstances where we may make changes to the terms and conditions include, but are not limited to those, where there are:
- changes to the cost of providing the account to you;
  - changes in the legal or other regulatory requirements affecting us; or
  - changes in our system or product development or enhancement.

If you consider that you will be adversely affected by changes notified to you under this clause, you may contact us to close the account.

Subject to any applicable laws, we will notify you of changes by:

- writing to you;
- the electronic means that you have agreed to receive notices in clause 20.2;



- a notice on or with your nominated account statement; or
- publishing a press advertisement in the national or local media.

We will notify you of changes at the following times (or such longer period required by law):

- if we introduce or increase a fee or charge we will give you notice of the change at least 30 days before the change takes effect; or
- if we change an interest rate, any component of an interest rate, change the method of calculating or paying interest or make any other change we will give notice of the change in the national or local media on or before the day the change takes effect or we will send a notice of the change to you on the day the change takes effect.

15.2 For the purposes of clause 15.1, reference to a 'fee or charge' does not include fees or charges payable under a law of the Commonwealth or of a State or Territory.

## 16. Joint accounts

If your account is in more than one name, the following applies:

- Each of you must fully comply with the terms and conditions applying to the account as if the account were in one name alone.
- Instructions in respect of the account may only be given in accordance with the election made in the Account Authority except that:
  - electronic access (each of Bankwest Online Banking, Phone Banking or Bankwest Debit Cards, including Debit Mastercards) to the account and any other Debit Mastercard access to the account will only be available to a person who is authorised to operate the account solely; and
  - any one of you may cancel the election made in the Account Authority in which event a new account operating authority will

be required from all of you.

- (c) Should one of you die, we will treat the survivor(s) as the account holder(s) unless you have specified otherwise.
- (d) We can send notices, statements and other documents (including a notice of a change to the terms and conditions applying to the account) by mailing them to any of you and they will be taken to have been given to all of you.

## 17. Powers of Attorney

If an account is to be:

- opened by an attorney on your behalf; or
- operated (including accessing information, transferring money into/out of the account and/or closing the account) by an attorney on your behalf;

You and the attorney must:

- Complete and sign any documents we require; and
- Provide us with any other documents or information we require.

If you appoint an attorney to open and/or operate your account, you must ensure that your attorney complies with the conditions of the account. We will tell you how an attorney can operate the account. Transactions performed by an attorney may be delayed until all required documents are received by us.

You must notify us in writing if the power of attorney is revoked. If you appoint an attorney, any reference to **'you'** in this document includes your attorney.

## 18. Trust accounts

18.1 If you open the account as a trustee, you represent and warrant that you have the necessary power and authority to open and operate the account, that you are the sole trustee of the trust, that no action has been taken to remove or replace you as trustee of the trust and that you have an unrestricted right to be fully indemnified out of trust assets in respect

of any liability that you may incur as trustee.

18.2 If you are a solicitor, real estate agent or settlement agent and you open the account as a trustee, you must authorise us to debit any fees to be charged in connection with the account to a trading account with us.

## 19. Changes in your particulars

19.1 You must inform us immediately of any change in your name or address including changes to your nominated mobile phone number or other electronic address. You can change your nominated email address via Bankwest Online Banking or make any other changes by calling us on 13 17 19.

19.2 We will not be responsible for any errors or losses associated with a change in your particulars if we do not receive notice or adequate notice of the change.

## 20. Service of notices

20.1 Whenever we send you a letter, notice or statement, or otherwise seek to communicate with you, we will do so by mail addressed to you at your last known address or business address as the case may be, or by the electronic means described in clause 20.2. For joint account holders, see clause 16(d).

20.2 Where applicable to your nominated account, you agree that we may satisfy any requirement under this Product Disclosure Statement or under any law or applicable code of conduct to provide users with information by:

- (a) electronic communication to your nominated electronic address;
- (b) making the information available on our website after first notifying you by:
  - SMS message to a mobile phone number you have given us for contacting you;
  - by electronic communication to any other electronic address you have given us for

- contacting you, or
- push notification from the Bankwest App that the information is available for retrieval by you;
- (c) a SMS text message to a mobile number you have given us for contacting you; or
- (d) such other means as we agree with you.

You may at any time by notice to us elect not to receive information by electronic communication or change your electronic address.

Should we provide you with information by an electronic method outlined in this clause 20.2, the information will be deemed to have been provided to you when the electronic communication enters the first information system outside Bankwest (e.g. your or your internet services provider's information system).

## 21. Exercise of our rights

We may exercise any right, remedy or power in any way we choose. If we decide not to exercise a right, remedy or power, this does not mean we cannot exercise it later.

## 22. Evidence

You agree that a sales voucher, or any other record of a transaction provided to a user by a merchant, is evidence of any transaction effected using a Debit Mastercard and of the amount shown, even if it is not signed by the user, unless the contrary is established.

## 23. Closing the account

23.1 We may close the account for any reason at any time. We will notify you in writing should we do so. You may contact us at any time to close the account.

23.2 If the account has a credit (positive) balance at the time that it is closed, that balance will be paid to you. However to the extent that that balance comprises any funds which have not

been cleared, the funds will not be available to you until they are cleared.

23.3 If the account has a debit (negative) balance at the time it is closed, that balance, including any debit interest or outstanding fees, will be due and payable by you to us upon demand.

23.4 Upon the closure of the account, all liabilities owing to us in relation to the account will become immediately due and payable and these Terms and Conditions will continue in full force and effect until those liabilities have been discharged in full.

## 24. Fees and charges

24.1 You must pay us the fees and charges that are or become payable in connection with the account in the amounts and at the times set out in the Product Schedule and any Supplementary Letter (if applicable), these Terms and Conditions and in Your Guide to Banking Fees, and you authorise us to debit them to the account.

24.2 If we incur any government tax, duty or other charge imposed by law in respect of the account or its operation, you must pay us an amount equal to the charge calculated in accordance with the methods prescribed from time to time by the relevant legislation. You authorise us to debit any such amount to the account.

24.3 Current information on fees and charges in respect of services which you may seek in relation to the account (for example, a copy of a statement) is available on request from the Customer Help Centre.

24.4 You may request in writing that we debit any fees and charges payable in connection with the account to another Bankwest-branded Investment and Transaction Account with us in the same name and capacity, provided that your request relates to all and not some only of those fees and charges. If for any reason we are unable at any time to debit that second account

as requested, we will debit the first account. You may, by further written request, withdraw your instruction.

## 25. Authorised signatories

25.1 You may authorise anyone to operate the account on your behalf as an authorised signatory by completing any written authority that we may require.

25.2 You remain responsible for all transactions made by the authorised signatory until you cancel the signatory's authority in writing. Before any signatory may operate the account we are required by law to verify their identity.

## 26. Severance

If any part or provision of the terms and conditions is or becomes void or unenforceable under any applicable statute in any State or Territory then as to that State or Territory that part or provision will be removed from the terms and conditions. Removal of any part or provision will not affect the remaining provisions in that State or Territory or affect the validity or enforceability of that part or provision in any other State or Territory.

## 27. Additional obligations

The Bank may be subject to laws or regulations in Australia or another country that affect your relationship with the Bank (eg. laws that address tax evasion). So that we may comply with our obligations under these laws or regulations, we may:

- require you to provide information about you or your product;
- disclose any information we are required to concerning you (including sending your information overseas);
- if required to do so, withhold an amount from a

payment to you, and if we do, we will not reimburse you for the amount withheld; and/or

- take such other action as is reasonably required, including, for example, closing your account.

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