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MasterCard
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12 September 2003

Acting Head of Payments Policy
Reserve Bank of Australia
GPO Box 3947
SYDNEY NSW 2001

Dear Madam

Draft Access Regime

We refer to the letter from Mrs Bullock of 24 July 2003 concerning the draft Access Regime gazetted on that day under the *Payment Systems (Regulation) Act 1998* which is proposed to apply to MasterCard and the other credit card schemes designated by the Reserve Bank of Australia ("Bank").

It is noted that, other than in some minor respects, the draft Access Regime gazetted on 24 July 2003 ("July 2003 Draft") is similar to what was said by the Bank (in its August 2002 Final Reforms and Regulation Impact Statement document) to be the final form of the Access Regime released by it in August 2002 ("August 2002 Access Regime"). As submissions from the public were not invited to be made on the August 2002 Access Regime, MasterCard did not make any submissions in respect of it - other than to the Court in the course of its legal proceedings against the Bank. Submissions made to the Court on the August 2002 Access Regime by MasterCard should be treated as submissions by MasterCard for the purposes of the July 2003 Draft. In view of the fact that several provisions in the Access Regime are subject to a determination by the Court, MasterCard believes that it is precipitate to release, let alone proceed to Gazette, the July 2003 Draft before those determinations have been made.

MasterCard had previously provided a Response in March 2002 ("March 2002 Response") on the draft Access Regime released by the Bank in December 2001 ("December 2001 Draft") and in respect of which the public was invited to make submissions. There are some differences between the December 2001 Draft and the July 2003 Draft. MasterCard provides below its comments on the July 2003 Draft and, as appropriate, cross refers to points made by it on the December 2001 Draft in its March 2002 Response.

Comments on Draft Access Regime

1. MasterCard notes that, unlike the situation which existed when the December 2001 Draft was released for public comment, there are now available:
 - APRA's Guidelines on Authorisation of Specialist Credit Card Institutions and APRA's Prudential Standard on Risk Management of Credit Card Activities; and
 - the new regulations made under the *Banking Act 1959* which define credit card issuing and acquiring activities in the designated credit card systems as banking business.

- MasterCard believes that the drafting of the July 2003 Draft should be more closely aligned to the new *Banking Regulations*. For example, the July 2003 Draft contains definitions of an "acquirer" and an "issuer" in paragraph 3. However, these definitions are different to the definitions of "credit card acquiring" and "credit card issuing" in Regulation 2(2) of the *Banking Regulations*. This could lead to anomalous situations. An illustration is that a person that issues credit cards to its customers is an "issuer" for the purposes of the July 2003 Draft but possibly not also for the purposes of the *Banking Regulations*, unless the additional requirements in the definition of "credit card issuing" in Regulation 2(2)(b)(i) or (ii) are satisfied. Namely, that the person also either:
 - receive payments from the customer for amounts owed by the customer (under the terms governing the credit card) for credit card transactions; or
 - pay, or accept liability to pay, a credit card acquirer for amounts paid or payable by the acquirer to a merchant for the customer's credit card transactions.
2. While paragraph 8 of the July 2003 Draft allows any criteria to be applied by the Scheme in assessing applications for participation in the MasterCard scheme, MasterCard believes that the setting of such criteria is seriously constrained by paragraph 9 of the July 2003 Draft. Paragraph 9 prohibits discrimination between specialist credit card institutions as a class and other authorised deposit-taking institutions as a class in relation to any of the criteria applied in assessing applications for participation or in relation to the rights and obligations of participants in the scheme. Accordingly, criteria or rights and obligations which are properly directed to the fact that an applicant for membership of the scheme is, for example, a specialist acquirer but which might not be applicable to another type of authorised deposit-taking institution which issues credit cards and acquires credit card transactions as only part of its business, is prohibited by paragraph 9. The fact that there are differences in the nature of a business undertaken by a specialist issuer and/or acquirer as compared to an authorised deposit-taking institution which is not such a specialist, was recognised by APRA in its Guidelines on Authorisation of Specialist Credit Card Institutions and Prudential Standard on Risk Management of Credit Card Activities. MasterCard believes that this should also be recognised in the Access Regime.
 3. Paragraph 9 of the July 2003 Draft is reworded as compared to paragraph 7 of the December 2001 Draft. Nevertheless, MasterCard believes that this paragraph still suffers from the problem identified at p.104, Item 35 in its March 2002 Response.
 4. Paragraphs 10, 11 and 12 of the July 2003 Draft deal with matters other than the entitlement or eligibility to become a participant in the MasterCard scheme. MasterCard believes that they are outside the definition of "access" in section 7 of the *Payment Systems (Regulation) Act* and should therefore not be included in an Access Regime.
 5. Paragraph 11 of the July 2003 draft Access Regime is reworded as compared to paragraph 9 of the December 2001 draft Access Regime. Notwithstanding the rewording, MasterCard refers to the comments provided at p.104, Item 36 in its March 2002 Response and also to the comments which it has made to the Bank (including elsewhere in its March 2002 Response¹) in support of its "net issuer" rules.
 6. Paragraph 12 of the July 2003 draft Access Regime is reworded as compared to paragraph 10 of the December 2001 draft Access Regime. Notwithstanding the rewording, MasterCard refers to the comments provided at p.104 Item 37 in its March 2002 Response, which it believes remain applicable.

In its March 2002 Response MasterCard stated that it believed that the Bank had completely misunderstood

¹ For example, p.100, Items 26, 27 and 29

the nature of the competition between three and four party schemes in its analysis in the Consultation Document.² As a consequence, the most likely effect of the Bank's proposals would be that the competitive and efficiency benefits of four-party schemes will be lost as they are likely to be replaced by less competitive and less efficient three-party systems in Australia. MasterCard believes that its concerns in this regard are justified and directly relevant to the Bank's consideration of the "public interest" in the *Payment Systems (Regulation) Act* 1998. MasterCard refers to the following reports as examples which clearly indicate a move to three-party schemes in Australia due to the Bank's regulatory intervention:

- that ANZ may acquire a portion of the Diners Club franchise in Australia from Citigroup. It was reported:

"ANZ has made clear its motivation for considering such deals. The RBA reforms will cut the wholesale interchange fee it receives for each cardholder transaction from about 1.05 per cent to 0.6 per cent. But many cardholders have a Qantas frequent-flyer scheme in their loyalty program, which cost ANZ nearly 1 per cent. Under the new RBA rules, those customers cost ANZ money. But Diners is not affected by RBA reforms, receiving more than 2 per cent every time a cardholder uses a card. If ANZ issues a Diners card, those customers who are often big spenders the bank doesn't want to lose can be profitable again." Andrew Cornell "The Challenges of a New Deck of Cards" Australian Financial Review, 11 August 2003.

- that ANZ has joined with Diners Club to launch two new charge cards. On 12 September 2003 the ANZ issued a Media Release (attached) which reported that Mr Hartzler of ANZ stated:

"Traditionally, interchange income has been an important offset to the cost of running reward programs. The RBA reforms, which have cut our interchange income by 40-50%, mean that we have no choice but to make changes to protect our business and to protect the benefits our customers receive. ... The new ANZ Diners Club charge cards are not affected by RBA reforms to interchange and will be offered to current Qantas ANZ Visa Card and Telstra Visa Card customers who are affected significantly by the product changes in response to RBA reforms."

- that American Express and National Australia Bank are considering an arrangement:

"Since the reforms were announced last year, several banks have investigated alliances with either Diners or Amex to address the new cost of those heavy loyalty-program users. Amex and National Australia Bank are the closest to finalising an arrangement and recently announced new arrangements for card terminals in shops, which pointedly excluded the acceptance of Diners cards." Andrew Cornell "ANZ, Diners Alliance a Win for Both" Australian Financial Review, 4 August 2003.

- the proposed American Express and Qantas co-branded charge card which will offer cash rebates to those using their card to purchase Qantas flights. See Joyce Moullakis "Qantas, Amex Unveil New Card for SMEs" *Australian Financial Review*, 14 August 2003.


Further, in the context of the July 2003 draft, the abolition of the "net issuer rule" diminishes MasterCard's ability to compete with three-party systems, since MasterCard will no longer be able to require members that wish to acquire MasterCard transactions to issue its cards while, presumably, American Express and Diners Club will be under no obligation to permit others to acquire their transactions unless they agree to issue their cards. This inequity will accelerate the migration of issuing from the four party systems to the less competitive and less efficient three party systems.

MasterCard provides this submission to the Bank on the basis that it makes no admission that the "MasterCard system" or the "MasterCard network card system" is a "payment system" within the meaning of

² Part A, Section 2.6

the *Payment Systems (Regulation) Act*, or as to the legal validity of the July 2003 Draft or any of the paragraphs in the July 2003 Draft. MasterCard reserves all of its legal rights.

Sincerely,


Leigh Clapham
Senior Vice President &
General Manager – Australasia



Media Release

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For Release: 12 September 2003

ANZ and Diners Club to launch new cards: Announce changes to reward programs

ANZ today announced it had joined with Diners Club to launch two new charge cards.

The ANZ Frequent Flyer Diners Club card will offer 1 Qantas Frequent Flyer point per dollar spent with no cap on points, and the ANZ Rewards Diners Club card will offer 1 reward point per dollar spent with no cap on points.

The two new cards are designed to be used in conjunction with the Qantas ANZ Visa card and the Telstra Visa card.

Charge card systems like Diners Club are exempt from the new interchange standard introduced by the Reserve Bank of Australia (RBA), which comes into effect on 31 October this year.

ANZ also announced changes to its current credit card reward programs, designed to minimise the impact of the RBA reforms on the majority of its customers and its business.

Key points

Diners Club Agreement

- Under the agreement signed today ANZ will offer two new ANZ Diners Club cards.
- The ANZ Frequent Flyer Diners Club card will offer 1 Qantas Frequent Flyer point per dollar spent, credited directly to the account holder's Qantas Frequent Flyer account without needing to be converted or redeemed.
- The ANZ Rewards Diners Club card will offer 1 Reward Point per dollar spent, which can be converted into a range of rewards including Telstra products and services, ANZ Reward Certificates, shopping vouchers and weekend getaways.

Other Reward Program changes

- Tiered reward point earn rates will be introduced for the Qantas ANZ Visa Card based on monthly spend. From 31 October, customers will continue to earn 1 Qantas Frequent Flyer point per dollar on their monthly purchases up to \$1,500 for Classic cardholders (\$2,500 for Gold Cards). They will then earn 1 point per \$2 spent on additional purchases up to a "cap" of \$5,000 (\$10,000 for Gold Cards). Customers will not accrue points on monthly purchases above \$5,000 (\$10,000 for Gold Cards) and will no longer earn two points per \$1 on overseas spend.
- The changes are designed to minimise the impact on rewards for most ANZ customers. Existing Qantas ANZ Visa Card customers spending less than \$1,500 each month on their card will not be affected by the monthly tiered earn rate or cap.
- Changes are not retrospective and do not impact points already earned or those earned up to 31 October this year.

- Bonus Points will continue to be earned at Bonus Partner outlets across Australia with no cap.
- Reward point earn rates will be reduced to 1 Reward Point per \$1.50 spent for the Sphere Rewards Program from 31 October 2003 and for the Telstra Visa Card from 7 November 2003. The Sphere Rewards Program is optional for the ANZ First Visa Card and ANZ Gold Visa Card.

ANZ Managing Director Consumer Finance Mr Brian Hartzler said: "The ANZ Diners Club combination offers our customers a fantastic opportunity to maximise their Qantas Frequent Flyer points.

"Diners Club will offer the only charge cards allowing customers to earn Qantas Frequent Flyer points directly to their Qantas Frequent Flyer accounts.

"The new Diners Club cards, the ANZ Low Rate MasterCard, introduced this week, and the changes to ANZ's reward programs are designed to offer customers the maximum card options, particularly in light of the RBA reforms.

"Traditionally, interchange income has been an important offset to the cost of running reward programs. The RBA reforms, which have cut our interchange income by 40-50%, mean that we have had no choice but to make changes to protect our business and to protect the benefits our customers receive.

"The changes to our reward programs are not retrospective and do not affect points earned before 31 October.

"Importantly, existing Qantas ANZ Visa Card customers spending less than \$1,500 each month on their card will not be affected by the monthly tier or cap. And those customers who typically spend less than \$2,000 each month on their card will see a reduction in points earned of 15% or less."

As part of the changes, the Qantas ANZ Visa Card will change its name to the ANZ Frequent Flyer Visa, and will feature the Qantas Frequent Flyer logo. It remains the only credit card where points are directly credited to a customer's Qantas Frequent Flyer account, without needing to be converted or redeemed by the customer.

Mr Hartzler said ANZ had faced a greater challenge finding a solution for higher spending customers in the new environment.

"It was important for us to find a way to minimise the impact on customers who spent higher amounts on their card. Our new partnership with Diners Club means we can offer a solution where customers can continue to maximise the points they earn," Mr Hartzler said.

"By using their new ANZ Diners Club Cards alongside their existing credit card, these customers can continue to earn one point per dollar with no cap, access the combined worldwide acceptance of Diners Club and Visa, and maintain the flexibility to pay their balance off over time when they need to," he said.

The new ANZ Diners Club charge cards are not affected by RBA reforms to interchange and will be offered to current Qantas ANZ Visa Card and Telstra Visa Card customers who are affected significantly by the product changes in response to RBA reforms.

"We have also introduced the new ANZ Low Rate MasterCard with an interest rate of 10.99% pa for customers who simply want to clear their debt faster with a low rate credit card that offers interest free days, but without rewards," Mr Hartzler said.

Other changes to credit cards, effective 31 October, are:

- The Foreign Currency Conversion Fee for the ANZ First Visa Card and ANZ Gold Visa Card will increase from 0.5% to 1.5%.
- Late Payment and Overlimit fees will rise reflecting the cost of managing late payments and credit risks. The Late Payment Fee will increase from \$25 to \$35. The Overlimit Fee will increase from \$25 to \$35.
- Annual Fee for ANZ First Free Days Visa Card will increase from \$26 to \$30. Other annual fees are unchanged.
- There will also be changes to ANZ Commercial Cards effective on 31 October.

In addition to the effect on customers through changes to credit card reward programs, ANZ has previously signalled it expects the reduction in revenue associated with the RBA reforms to reduce after tax profit by up to \$40 million in 2004.

Mr Hartzler said all ANZ credit card customers affected by the changes will receive a personal letter with details of the changes and the options available to them. Customers needing more information can ring a dedicated customer service centre on 1-800-777 170.

For media enquiries contact:

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Details of changes to ANZ credit card programs effective 31 October 2003

Qantas ANZ Visa Card

From 31 October 2003, the Qantas ANZ Visa Card will be known as the ANZ Frequent Flyer Visa, featuring the Qantas Frequent Flyer logo on the card.

Qantas Frequent Flyer points are currently earned at a rate of 1 point per \$1 spent, with two points per \$1 for overseas spend. From 31 October, the number of points earned will be awarded based on the amount spent each month using the following tiers:

Monthly Spend Tiers	Amount spent per month	Points earned
ANZ Frequent Flyer Visa	First \$1,500 spent	1 point per \$1 spent (No change)
	Additional spend from \$1,500 to \$5,000	1 point per \$2 spent
	Additional spend over \$5,000	No points
ANZ Frequent Flyer Visa Gold	First \$2,500 spent	1 point per \$1 spent (No change)
	Additional spend from \$2,500 to \$10,000	1 point per \$2 spent
	Additional spend over \$10,000	No points

Cardholders will no longer earn two points per \$1 on overseas spend.

Bonus Points earned by customers continue to be unlimited and will not be included in the monthly tiered earn rate or cap.

The ANZ Frequent Flyer Visa will continue to be the only credit card to directly transfer points earned to the customer's Qantas Frequent Flyer account.

Telstra Visa Card

Telstra Visa Card reward points are currently earned at a rate of 1 point per \$1 spent with double points for overseas spend. From 7 November, the earn rate will be 1 point per \$1.50 spent (including overseas spend) with an annual spend cap for receiving reward points of \$50,000 for the Classic Card and \$100,000 for the Gold Card. Cardholders will no longer earn two points per \$1 on overseas spend.

The annual Rewards Program Services fee of \$22 currently applies to each credit card account. From 7 November, that fee will be charged for each cardholder at the customer's next anniversary date.

Sphere Rewards (optional on ANZ First Visa Card and ANZ Gold Visa Card credit cards)

Sphere Reward Program points are currently earned at a rate of 1 point per \$1 spent, with an annual points cap of 50,000 points for ANZ First and 100,000 points for the Gold Card. Gold Card customers also receive two points per \$1 of overseas spend. Following the changes on 31 October, the earn rate will be 1 point per \$1.50 spent (including overseas spend) and there will be an annual spend cap for receiving reward points of \$50,000 for ANZ First and \$100,000 for the Gold Card.

The annual Rewards Fee of \$33 will be reduced to \$22 at the customer's next anniversary date. At present this fee applies to each credit card account, however, from 31 October this fee will be charged for each cardholder at the customer's next anniversary date.

ANZ Diners Club Cards

ANZ Frequent Flyer Diners Club Card (offered to ANZ Frequent Flyer Visa customers):

- Qantas Frequent Flyer points with no cap: 1 Qantas Frequent Flyer point per \$1 spent. Customers who take up this offer can use both cards to maintain an earn rate of 1 point per \$1 spent wherever their Diners Club Card is accepted.
- No annual fees for the first year.
- Points earned on the ANZ Frequent Flyer Diners Club Card are also directly credited to their Qantas Frequent Flyer account.

- No preset spending limit, with the full amount spent on the ANZ Frequent Flyer Diners Club Card to be paid off each month. Alternatively, the balance can be transferred to the customer's ANZ Frequent Flyer Visa (within their credit limit), to be paid off over time.
- Combined worldwide acceptance of Diners Club and Visa.

ANZ Rewards Diners Club Card (offered to Telstra Visa Customers):

- Reward points with no cap - 1 Telstra Reward point per \$1 spent. Customers who take up this offer can use this card to maintain an earn rate of 1 point per \$1 spent wherever their Diners Club Card is accepted.
- No annual fees for the first year.
- Points earned on ANZ Rewards Diners Club Card are also directly credited to their Telstra Rewards account.
- No preset spending limit, with the full amount spent on the ANZ Rewards Diners Club Card to be paid off each month. Alternatively, the balance can be transferred to the customer's Telstra Visa Card (within their credit limit), to be paid off over time.
- Combined worldwide acceptance of Diners Club and Visa.

Other Changes

- The Foreign Currency Conversion Fee for the ANZ First Visa Card and ANZ Gold Visa Card will increase from 0.5% to 1.5%, bringing those fees into line with the existing Foreign Currency Conversion Fee applicable to all other ANZ credit cards.
- Late Payment and Overlimit fees will rise, reflecting the cost of managing late payments and higher credit risks associated with those customers. The Late Payment Fee will increase from \$25 to \$35. The Overlimit Fee will increase from \$25 to \$35.
- Annual Fee for ANZ First Free Days Visa Card will increase from \$26 to \$30. Other annual fees are unchanged.
- There will also be changes to ANZ Commercial Cards effective on 31 October affecting fees, interest free days, and the rewards program earn rate on ANZ Business One.

Background on Credit Card Reforms by the Reserve Bank of Australia

The reduction in interchange - a fee paid between banks on each credit card transaction and which forms a part of fees paid by retailers - associated with the new standard is one of a number of Reserve Bank reforms to the credit card market.

The RBA has designed the reforms to make the cost of credit cards clearer to users, to create a user-pays principle for credit card users, and to encourage use of lower cost payments channels such as EFTPOS. Reward programs are particularly impacted as reward costs have been excluded from the Reserve Bank's new standard for calculating interchange.

The cost-based benchmark for each credit card scheme, which sets a ceiling on average interchange fees in the scheme, will be applied by scheme members. Different interchange rates will apply for different transaction types (eg. electronic versus paper), but average interchange fees in Australia will fall from around 0.95 per cent of the value of each credit card transaction at present to around 0.5–0.6 per cent in the second half of 2003: a reduction of around 40 per cent. The reduction in interchange fees is expected to result in lower merchant service fees, which should, in turn, pass through to the community in the general level of prices.

Further details of the reform measures and their implementation schedule are provided in the Regulation Impact Statement, which is available at the Reserve Bank and on its website (www.rba.gov.au).