

19 January 2009

Ms Michele Bullock  
Head of Payments Policy  
Reserve Bank of Australia  
GPO Box 3947  
SYDNEY NSW 2001

Dear Michele

### **Submission on the draft Access Regime for the ATM System**

APCA submits the following comments on the draft Access Regime for the ATM System, released for consultation on 10 December 2008 (draft Access Regime). These comments do not necessarily represent the views of all of APCA's members.

#### **Why Regulation is Needed**

- 1 APCA is of the view that it was necessary for the RBA to designate the ATM system and enact a co-regulatory Access Regime, to operate with the ATM Access Code, to provide legal certainty with respect to the *Trade Practices Act* (TPA), within the limited time available.
- 2 As you know, we arrived at this view after exploring a number of other options in considerable detail, including:
  - (a) authorization pursuant to the TPA;
  - (b) reliance on provisions in the TPA relating to joint ventures;
  - (c) obtaining legal certainty through a combination of expert economic analysis and legal advice; and
  - (d) government enacting a *Regulation* under Section 32 of the *Payments System (Regulation) Act* (PSRA).
- 3 APCA therefore supports designation of the ATM system and imposition of a 'co-regulatory' Access Regime under Section 12 of the PSRA. However APCA has some specific comments on aspects of the draft Access Regime.

#### **Cap on Connection Charges**

- 4 Direct Connection Cap: the draft Access Regime includes a cap of \$76,700, the lowest estimated cost of provision of the Direct Connection Service reported in our August 2008 survey.

This proposal may encourage the establishment of Direct Connections that are inefficient because they are not used to perform a volume of transactions that justifies the cost of establishment and operation. An approach that takes this possibility into account would, in our

view, be likely to lead to more efficient outcomes. One such approach is a 'pier of pay' model, involving additional charges for connections that, after a reasonable period of time, are judged (on clear objective criteria) to be inefficient. As you know we have done some preliminary work on a pier or pay model and would be pleased share this with you and further develop the model with the RBA.

- 5 Direct Clearing/Settlement Cap: the RBA's view is that Access Seekers should not be charged to establish a Direct Clearing/Settlement Arrangement. Accordingly the draft Access Regime does not include a cap for provision of the Direct Clearing/Settlement Service and the RBA's expectation is that the ATM Access Code will not provide for payment of any charges for provision of the Direct Clearing/Settlement Service.

It is not correct to say that the Direct Clearing/Settlement Service is somewhat different to the Direct Connection Service. A Direct Connection and a Direct Clearing/Settlement Arrangement are in most respects identical and, in particular, both allow an Access Seeker to participate directly, as a principal, in the ATM system. The only point of difference is the physical connectivity between Access Provider and Access Seeker. Further, based on our August 2008 survey, it is clear that Access Providers will incur substantial costs to establish a Direct Clearing/Settlement Arrangement.

Accordingly APCA does not support the current approach. Access Providers should be able to charge for provision of the Direct Clearing/Settlement Service and, if a cap is required, it should be calculated using a methodology that minimizes the possibility of inefficient Direct Clearing/Settlement Arrangements (see 4 above). The pier or pay model referred to above could also be used for Direct Clearing/Settlement Arrangements (as mentioned above, we would be pleased to develop a pier or pay model with the RBA).

### **Interchange Fees**

- 6 In general terms APCA is supportive of the provisions in the draft Access Regime. However there may be circumstances (in addition to bespoke agreements or within a sub-network) when allowing interchange fees to be paid between participants could enhance competition. To cater for this possibility, consideration should be given to a provision in the Access Regime that gives the RBA the ability to approve other interchange fee arrangements that enhance competition.

### **Future Evolution of the ATM System**

- 7 As we have discussed APCA is currently working on a Community of Interest Network (COIN) initiative, which addresses some of these issues. A further program of work is also being developed to supplement this initiative in light of the RBA's position.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Hamilton', written in a cursive style.

Chris Hamilton  
**CHIEF EXECUTIVE OFFICER**