

2015/16 Assessment under the Regulator Performance Framework

November 2016

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1. Introduction and Summary of Assessment

1.1 Introduction

In 2014 the Australian Government released its Regulator Performance Framework (the Framework), as part of its commitment to reduce the cost of unnecessary or inefficient regulation imposed on individuals, business and community organisations. The Framework consists of six outcomes-based key performance indicators to articulate the Government's overarching expectations of regulator performance:

1. Regulators do not unnecessarily impede the efficient operation of regulated entities.
2. Communication with regulated entities is clear, targeted and effective.
3. Actions undertaken by regulators are proportionate to the regulatory risk being managed.
4. Compliance and monitoring approaches are streamlined and coordinated.
5. Regulators are open and transparent in their dealings with regulated entities.
6. Regulators actively contribute to the continuous improvement of regulatory frameworks.

The Framework aims to encourage regulators to undertake their functions with the minimum impact necessary to achieve regulatory objectives. It is focused on the administration, monitoring and enforcement of regulation, rather than the setting of policy. The Bank is supportive of the Framework and seeks to continuously improve its regulatory approach.

The Framework requires regulators to measure and report on their performance against the key indicators on an annual basis. The Bank, in consultation with stakeholders, has developed two sets of metrics to allow assessment against the indicators – one set for its retail payments responsibilities, the other for its clearing and settlement (CS) facility responsibilities; these have been made public.¹ The metrics are a combination of factors that can be objectively assessed by the Bank and the results of surveys of regulated entities (See Appendices 1 and 2 for details). To support its first annual assessment, the Bank has surveyed the retail payment systems and CS facilities it regulates – the draft survey questions were shared with stakeholders, and their feedback sought, before being finalised. To encourage frank feedback the surveys were returned to the Bank's Risk and Compliance Department, which anonymised the responses before forwarding them on to Payments Policy Department. A summary of retail payments stakeholder feedback is provided in Appendix 3. Stakeholders were also given an opportunity to 'validate' a draft version of the assessment itself. A summary of stakeholder feedback on the draft assessment has been provided (Appendix 4)]

1 Available at <http://www.rba.gov.au/payments-and-infrastructure/pdf/regulator-performance-framework-metrics--retail-payment-systems.pdf> and <http://www.rba.gov.au/payments-and-infrastructure/pdf/regulator-performance-framework-metrics--cs-facilities.pdf>.

Each assessment is set out under the six key performance indicators of the Framework. For each indicator, a summary of the Bank's performance against the agreed metrics is provided, followed by an overall assessment, including actions the Bank proposes to take to improve its performance.

1.2 Summary of Assessment

With respect to its regulation of **retail payment systems**, the Bank is assessed to have met the key performance indicators, but with room for improvement in some areas. The Bank's strong culture of consultation means that it has a good awareness of the environment faced by regulated entities so that they are not unnecessarily impeded in their activities by the way in which regulation is applied. Stakeholders nonetheless indicated that the Bank was less well informed of emerging issues. The Bank's consultative processes are also viewed as a very positive element of its communication with stakeholders, though card schemes saw the potential for more targeted guidance and greater use of 'plain English' information – something the Bank has already begun to pursue.

Processes for monitoring and ensuring compliance with regulation are light-touch, with card schemes allowed to self-certify compliance. There were no enforcement actions in the reporting period and monitoring costs were modest. The Bank seeks to streamline the application of regulation by actively coordinating with the ACCC (the other regulator with a competition mandate in respect of payment systems), while requests for information from the schemes are generally viewed as reasonable.

The Bank maintains transparency of its approach to policy, in part via the publication of a large volume of material on the industry and regulation. Where schemes make specific requests for information or clarification, they are largely comfortable with the Bank's response. The Bank seeks to contribute to continuous improvement of regulatory frameworks through ongoing monitoring and research on retail payments matters, engagement with overseas regulators and participation in international committees related to retail payments.

With respect to its regulation of **CS facilities**, the Bank is also assessed as having met the key performance indicators, once again with room for improvement in some areas. To ensure the Bank does not unnecessarily impede the efficient operation of CS facilities, the Bank's regulatory framework is closely aligned with international standards. Since the new international standards are significantly more detailed and expansive than their predecessors, this has led to an expansion of the Bank's assessment process in recent years. However, the Bank will give further consideration to making greater use of the flexibility available to it with a view to minimising the burden on regulated entities without compromising the benefits of disclosure.

The feedback on domestic cooperation was unanimously positive, with noted improvements in the coordination with ASIC in recent years. However, coordination with and/or placing greater reliance on, overseas regulators was seen as an area that could be improved. The Bank acknowledges that the latter arrangements are evolving, which is to be expected as the arrangements are relatively new.

All the CS facilities agreed that the Bank generally demonstrates a good understanding of the facilities' operating environment. However, it was noted that recent changes in personnel have occasionally led to an inconsistency in approach. A number of possible actions have been identified by this assessment. These are summarised in Box A.

Box A: Actions Identified in this Assessment

Retail Payment Systems

- consider a more structured approach to identifying emerging issues
- during regulatory consultations, explicitly seek views on the two-to-three year effects of any regulatory change
- investigate the potential for greater use of standardised electronic approaches to consultation and certification of compliance
- make greater use of 'plain-English' in communications
- consider a more structured process for determining when a shorter consultation is appropriate
- consult with regulated entities when making future information requests to ensure that both requests and timeframes are reasonable

Clearing and Settlement Facilities

- review the annual assessment process with a view to minimising the burden on regulated entities without compromising the benefits of disclosure
- continue to improve coordination with overseas regulators and give further consideration to the scope for greater reliance on foreign regulatory authorities
- consult with stakeholders on additional questions for the survey to be used in 2017 in relation to KPI 3 (actions undertaken by regulators are proportionate to the regulatory risk being managed)
- continue to explore ways to ensure consistency in the regulatory approach.

2. Retail Payment Systems

The following sections set out the Reserve Bank's assessment under the Regulator Performance Framework of its activities in relation to the regulation of retail payment systems. The assessment is based on the metrics established in mid 2015 following consultation with stakeholders (Appendix 1). Many of the metrics rely on input from those same stakeholders, gathered through an anonymous survey of regulated entities. A summary of numerical survey responses is provided in Appendix 4.

For the purposes of the 2015/16 self assessment, the stakeholder group used for both the metrics and feedback on the assessment consists of the three payment card schemes that were subject to Reserve Bank regulation at the start of the assessment period – eftpos Payments Australia Limited (ePAL), MasterCard and Visa.

2.1 Regulators do not unnecessarily impede the efficient operation of regulated entities

The metrics for this KPI relate to: evidence of stakeholder consultation and engagement; stakeholders' assessment of the Bank's understanding of the environment, emerging issues and compliance costs; and stakeholder views on opportunities for reducing compliance costs and unintended consequences of the administration, monitoring and enforcement of regulation.

The Bank engages extensively with the industry in an effort to understand emerging issues and the environment in which regulated entities operate. In 2015/16, Payments Policy staff held 79 meetings with stakeholders in relation to regulatory consultations and 56 meetings related to developments in the industry, including 18 with industry associations. This includes only formally scheduled meetings with Payments Policy staff; it does not include numerous less formal meetings, nor meetings between the Payments System Board Chair or Deputy Chair with stakeholders.

Stakeholders on average rated the Bank's understanding of the operating environment for regulated entities as good, and its understanding of emerging issues as satisfactory. They acknowledged the strength of the Bank's consultation processes and academic approach to issues, but expressed reservations about its understanding of business considerations and suggested that it did not sufficiently acknowledge some perspectives on regulation. One respondent suggested that during consultation the Bank could specifically seek views on the two-to-three year effects of regulation. In terms of emerging issues, stakeholders questioned the Bank's understanding of relevant international and security developments, while one was concerned about the Bank's ability to respond quickly to developments given the requirements of the regulatory and consultation process.

There was a divergence in stakeholders' assessments of the Bank's awareness of compliance costs and unintended consequences of administering regulation, with two respondents rating the Bank's performance as satisfactory and one as very good. All respondents indicated that the Bank had a good understanding of compliance costs, but some suggested that these costs were not sufficiently acknowledged in the Bank's actions or that additional costs might arise through unintended consequences from regulation and ensuing regulatory responses.

One stakeholder suggested that compliance burden could be reduced by greater use of electronic processes for both consultation (thereby reducing timeframes for regulation) and certification of compliance with standards. Another recommended further stakeholder engagement, while the third sought reversal of a specific regulatory decision.

2.1.1 Reserve Bank assessment

While the Bank engages extensively with stakeholders, regulated entities have some concerns about the Bank's understanding of the environment, and particularly emerging issues. The Bank will consider whether a more structured approach can be taken to identifying emerging issues. The Bank also sees merit in the suggestion that during regulatory consultations it explicitly seek views on the two-to-three year effects of any regulatory change. In respect of compliance burden, the Bank will investigate the potential for greater use of standardised electronic approaches to consultation and certification. The Bank considers that some other specific concerns raised by stakeholders relate to policy decisions made by the Bank after balancing all relevant factors, and do not reflect deficiencies in the application of regulation.

2.2 Communications with regulated entities are clear, targeted and effective

The metrics for this KPI relate to: publication of regulations and explanatory material; evidence of stakeholder consultation on new regulations, along with stakeholders' assessment of this engagement and consultation; stakeholders' assessment of the availability of guidance material; and stakeholders' assessment of the timeliness of the Bank's responses to requests for information and clarification.

All Reserve Bank regulatory instruments are publicly available on the Bank's website. When the Bank implements or changes regulation, a range of explanatory material is published, typically including a media release, a detailed 'conclusions' document, an explanatory statement accompanying the registered instrument and, if required, a Regulation Impact Statement. During 2015/16, the Bank published three new standards for designated card systems, two dealing with interchange fees and one dealing with card surcharges. All of the above explanatory information was published, along with some additional 'Questions and Answers' on the Reserve Bank's website. In the process of determining these standards, the Bank held two major consultations, receiving a total of around 80 submissions. It held an industry round table, attended by 33 organisations, in June 2015 and during the course of 2015/16 held 79 consultation meetings, the majority of which related to this consultation.

Regulated entities on average rated the Bank's engagement with stakeholders during the development of regulation as very good, though noting room for further improvement, including by providing access to the Payments System Board. The adequacy of guidance information was on average rated as good, though one respondent (which viewed the Bank's performance as satisfactory) argued that there was a need for more 'plain English' material. The Bank's responsiveness to requests from regulated entities for information and clarification of regulation was rated on average as very good, with one respondent noting the Bank's responsiveness and accessibility but another expressing a preference for more detailed responses.

2.2.1 Reserve Bank assessment

The Reserve Bank has multiple modes of communication on regulation and that communication appears to be well regarded by stakeholders. The Bank will look at the potential for greater use of 'plain-English' in its communications. It notes that the use of 'Questions and Answers' on its website is a recognition of the importance of this. The Payments System Board is now undertaking greater direct engagement with the industry through the Australian Payments Council, and the Board considers that this is an appropriate channel for more direct engagement. In addition, the Deputy Chair of the Board frequently joins meetings with stakeholders and chaired the regulatory round-table held in June 2015. Further, the Chair of the Board typically meets with members of the global management teams of the two international schemes when they visit Australia. However, it otherwise remains appropriate for the Board to receive its briefing from Bank staff who have consulted with a broad range of stakeholders and can present the full range of views of those stakeholders.

2.3 Actions undertaken by regulators are proportionate to the regulatory risk being managed

The metrics for this KPI relate to: the ability of regulated entities to self-certify compliance with regulation where appropriate; the number and type of enforcement actions undertaken; and estimates of person-hours expended on demonstrating compliance with regulation and to support Reserve Bank monitoring activities. Respondents were also asked for views on the scope for a more risk-based approach to regulation.

Card schemes regulated under Reserve Bank access regimes and interchange fee standards self-certify compliance once each year. Regulated schemes' estimates of their costs of demonstrating compliance during 2015/16 ranged between 16 person hours and 60 to 100 person hours. Estimates of the cost of Reserve Bank monitoring activities (for instance the provision of aggregate interchange fee data) ranged between 36 hours and 80 to 150 hours for 2015/16.

There were no enforcement actions undertaken during 2015/16.

One respondent suggested that there could be scope for the Bank to adopt shorter consultation periods where regulatory matters were particularly pressing. Another respondent provided feedback that a consultation process from December to January had raised some issues relating to senior staff availability, given its partial overlap with a traditional holiday period.

Reserve Bank assessment

While there are a range of estimates of compliance and monitoring costs, even the highest estimates remain relatively modest and there have been no enforcement costs. Given that these costs are already low, there is little potential to reduce them further via a risk-based methodology. The Bank notes the suggestion that consultation periods be shortened. The Bank is generally required to consult by the provisions of the *Payment Systems (Regulation) Act 1998*. It has on occasions adopted a relatively short consultation process, but its capacity to do so depends heavily on the complexity of the issue at hand and the number of stakeholders. The *Australian Guide to Best Practice Regulation* suggests a consultation period of not less than 30 days and up to 60 days for complex issues. The Bank will consider whether there is potential to establish a more structured process for determining when a shorter consultation is appropriate. The Bank has also taken care to ensure that consultation periods are longer when they overlap with holiday periods.

2.4 Compliance and monitoring approaches are streamlined and coordinated

The metrics for this KPI relate to: the existence of documented arrangements for policy coordination and information sharing with the Australian Competition and Consumer Commission (ACCC); stakeholders' assessment of the reasonableness of data and other *ad hoc* information requests by the Reserve Bank; stakeholders' views on the scope for data requested to be better aligned with that used internally by regulated entities; and the scope for data requirements and processes to be better aligned with other regulators.

The Reserve Bank has had a memorandum of understanding in place with the ACCC, covering policy coordination and information sharing, since 1998.

On average, regulated entities rated the reasonableness of data requests by the Bank as good. However there was a large divergence of views on the reasonableness of other *ad hoc* information requests by the Bank, with two respondents rating them as very good and one rating them as poor, arguing that the timeframes adopted were often unreasonable. Similarly, two respondents saw very little scope for better aligning data requests with data used internally by regulated entities, while the third believed that there was some scope. The same was also true in respect of the potential for better alignment of data requirements and regulatory processes with other regulators.

Reserve Bank assessment

The relatively high ratings from two of the three respondents suggest that the Bank's compliance and monitoring processes generally are reasonable. However, the Bank should aim to achieve a more uniform result and will consult more carefully with regulated entities when making future information requests.

2.5 Regulators are open and transparent in their dealings with regulated entities

The metrics for this KPI relate to: the publication of regulatory objectives; the publication of regulatory developments and a summary of stakeholder feedback in the Payments System Board Annual Report; accessibility of policies and reports; and stakeholders' assessment of the responsiveness of the Bank to enquiries regarding the operation of the regulatory framework.

The Bank's objectives for regulation are published on its website ('Approach to Regulation' page). Regulatory and other developments during each financial year are published in the Payments System Board Annual Report. The 2015/16 Annual Report will include a summary of stakeholder feedback received as part of the Regulator Performance Framework process.

The Bank is committed to upholding the Web Content Accessibility Guidelines (WCAG) 2.0. Work is underway across the Bank to achieve compliance in line with the Web Accessibility National Transition Strategy.

Stakeholders' assessment of the Bank's responsiveness to requests or queries ranged from satisfactory to very good. One respondent argued that responses were sometimes slow or lacking in clarity or depth. Others had a more favourable assessment but saw potential for further improvement through published guidelines or private rulings where there is ambiguity, or through greater access to the Payments System Board.

Reserve Bank assessment

The Bank publishes a significant amount of information on its regulatory activities and is generally viewed as responsive to requests for information or clarification from regulated entities. The Bank has been using the 'Questions and Answers' on its website as a vehicle for providing additional guidance on its most recent changes to payment card regulation. The Bank encourages regulated entities to seek further clarification where they feel that they have not received sufficient information from the Bank.

2.6 Regulators actively contribute to the continuous improvement of regulatory frameworks

The metrics for this KPI relate to: Reserve Bank engagement in domestic and international policy research on retail payments; engagement with regulated entities and other stakeholders (categorised by the trigger for the engagement); reporting of stakeholder feedback to the Payments System Board; and stakeholders' views on opportunities for reducing compliance costs.

The Bank's Payments Policy Department conducts monitoring, research and analysis of developments, including regulatory developments, that are relevant to the Australian and overseas payments systems. It frequently engages with overseas regulators and other parties to better understand emerging trends and alternative approaches to regulation. During 2015/16 it participated in a number of international groups that deal with payments regulation, including: the Committee for Payments and Market Infrastructures and its working groups on Retail Payments and Digital Innovation; the EMEAP Working Group on Payment and Settlement Systems; and recently the Financial Stability Board's Financial Innovation Network. The Bank has also engaged extensively with regulated entities and other stakeholders. Of nearly 150 stakeholder meetings related to retail payments during 2015/16, 20 were initiated by the Bank, around 120 by stakeholders and 10 were standing engagements. The majority of these meetings related to regulatory consultations or a discussion of industry developments, with around 10 focused on clarification of regulation or the Bank's regulatory approach.

Stakeholder feedback gathered through the Regulator Performance Framework process will be reported to the Payments System Board and included in the Payments System Board Annual Report for 2015/16.

Stakeholders saw some opportunities to reduce compliance costs, including greater use of electronic processes for both consultation and certification of compliance with standards. One stakeholder sought amendment of a specific regulatory decision.

Reserve Bank assessment

The Bank actively monitors and analyses payments system developments. It engages actively with the international regulatory community to gain a better understanding of international trends and regulatory best practice, as well as to contribute to the development of the international community's thinking on regulation. During 2015/16, a significant focus of these efforts, both domestically and internationally, has been financial technology (FinTech), including digital currencies and distributed ledger technology.

As noted in section 2.1, the Bank will consider the potential for streamlined electronic processes to improve the efficiency of both consultation and compliance monitoring.

3. Clearing and Settlement Facilities

The following section sets out the Reserve Bank's assessment under the Regulator Performance Framework of its activities in relation to the regulation of CS facilities. The assessment is based on the agreed metrics established in mid 2015 following consultation with CS facilities licenced in Australia (Appendix 2). Many of the metrics rely on input from those same stakeholders, gathered through an anonymous survey of regulated entities.

For the purposes of the 2015/16 self assessment, the stakeholder group was comprised of ASX (on behalf of its four CS facilities), Chicago Mercantile Exchange (CME) and LCH.Clearnet Ltd (LCH). The responses to the CS facility survey aligned with feedback the Bank has received directly from each of the CS facilities.

3.1 Regulators do not unnecessarily impede the efficient operation of regulated entities

The metrics for this KPI relate to: alignment with international best practice; evidence of stakeholder consultation; the quality of the Bank's engagement with regulated entities; and stakeholders' assessment of the Bank's understanding of their operating environment.

To ensure the Bank does not unnecessarily impede the efficient operation of CS facilities, the Bank's regulatory framework is closely aligned with international standards. This has been demonstrated in two recent peer reviews of Australia conducted by Committee on Payments and Market Infrastructures (CPMI) and International Organization of Securities Commissions (IOSCO). In 2015 CPMI-IOSCO assessed that Australia fully observes *the Responsibilities for Authorities* that have regulatory responsibility for CS facilities. These Responsibilities cover the scope of the regulatory regime, the powers and resources available to the relevant authorities, the disclosure of policies, the adoption of the *Principles for Financial Market Infrastructure* (PFMI), and cooperation between authorities. In addition, a peer review of Australia's implementation of the PFMI, which was published in December 2015, confirmed that Australia's implementation of the Principles is complete and consistent in most respects.

The Bank was actively involved with these peer reviews, including through co-chairing the CPMI-IOSCO Implementation Monitoring Standing Group that carried out the exercises, providing it with the opportunity to learn from peer experiences and share better practices. This is in addition to its regular engagement with the home regulators of overseas CS facilities that are licensed in Australia.

Over the last year the Bank has been involved in consultations with stakeholders on various aspects of the policy framework including competition in clearing Australian cash equities, a resolution regime for CS facilities and a proposed new approach to assessing whether an overseas CS facility is 'operating in Australia'.

The effectiveness of the Bank's engagement with CS facilities is generally supported by the survey responses. One respondent provided specific suggestions to enhance the effectiveness of the Bank's engagement, including a number relating to the organisation of scheduled meetings. It was also

suggested that, where possible, greater transparency of the upcoming timeline would enhance the CS facility's ability to ensure appropriate resources where available to respond.

All the CS facilities agreed that the Bank generally demonstrates a good understanding of the facilities' operating environment. However, one observed that while the Bank has demonstrated a willingness to engage and discuss jurisdictional differences in operational environments, deference to practices designed to address foreign regulation and market structure has been less forthcoming.

3.1.1 Reserve Bank assessment

The Bank's regulatory framework for CS facilities is aligned with international best practice, and the Bank regularly engages with relevant overseas regulators to learn from peer experiences. However, the Bank will look to use this assessment process to formalise the process for reviewing its regulatory approach. While the Bank's engagement with CS facilities is generally effective, one respondent provided suggestions for improvement. The Bank is already engaging with that entity on these suggestions and will be implementing a number of them in the near future.

The Bank also acknowledges the need to consider jurisdictional differences in operational environments. The Bank's principles-based regime allows it the flexibility to focus on outcomes, rather than be prescriptive about how these outcomes are achieved. This allows the Bank to take into account different practices that are designed to address foreign regulation and market structure, as long as equivalent outcomes are achieved; this is important in order to minimise regulatory arbitrage. The alignment of the Bank's regulatory framework with international standards also minimises the likelihood of conflicting requirements. Nevertheless, the Bank will give further consideration to the scope for greater reliance on foreign regulatory authorities – particularly to the extent that CS facilities face conflicting regulatory requirements.

3.2 Communications with regulated entities are clear, targeted and effective

The metrics for this KPI relate to: published standards and guidance material; consultation on any proposed changes to this material; and CS facilities' assessment of the clarity and timeliness of the Bank's bilateral communication.

The Bank publishes its standards and guidance on its website. One CS facility noted that the Bank's policies around its engagement with overseas CS facilities offer a wide degree of latitude to the Bank, and therefore the CS facilities' obligations are largely defined by agreement. The CS facility implied that this discretion could be constrained by a greater level of prescription in the regulations. Another suggested that the Bank should make greater use of the flexibility it has, for example by conducting thematic reviews. This facility expressed concern that the scope of the annual assessment has increased significantly in the past year, creating a burden on CS facilities' staff to review for accuracy, materiality and to ensure that confidential information is not disclosed.

While there were no changes to the Bank's standards over 2015/16, the Bank is committed to consulting with stakeholders in developing any new standards or changes to standards. As mentioned above, the Bank has been involved in a number of consultations on various aspects of the policy framework for CS facilities.

All CS facilities responded positively with respect to the Bank's communication with them, describing it variously as clear, concise, timely, and proactive. Indeed, a number of the respondents noted that the Bank has demonstrated receptiveness to feedback.

3.2.1 Reserve Bank assessment

Both objective measures and feedback from regulated entities suggests that the Bank's communication with CS facilities is generally clear, targeted and effective. While the Bank acknowledges there is a degree of judgement in its approach to engagement with overseas CS facilities, feedback suggests that clarity is provided in bilateral engagement with each CS facility. The Bank also acknowledges that the assessment process has expanded over recent years; this is to be expected given that the revised international standards are significantly more detailed and expansive than their predecessors. The Bank is considering the feedback on the scope of its annual assessment process. In doing so, however, it must also consider the benefits of greater disclosure about the procedures and policies of CS facilities in terms of allowing CS facility participants to measure, manage and control their exposure to CS facilities. The international trend towards greater disclosure recognises these benefits.

3.3 Actions undertaken by regulators are proportionate to the regulatory risk being managed

The metrics for this KPI relate to: the Bank's risk-based approach to regulating CS facilities and its engagement with regulated entities to inform them of expectations.

The Bank's risk-based approach to regulating CS facilities is set out publicly. The Council of Financial Regulators (CFR) policy on *Ensuring Appropriate Influence for Australian Regulators over Cross-border Clearing and Settlement Facilities* sets out a graduated framework that imposes additional requirements on cross-border facilities proportional to the materiality of domestic participation in the facility, the facility's systemic importance to Australia, and the strength of its connection to the domestic financial system or real economy. This policy has already been applied in the case of CME and LCH and, in March 2014, the CFR clarified how the Australian financial regulators would expect to apply the policy in a range of other market scenarios.

The Bank has also applied the risk-based and proportionate approach set out in its policy on *Frequency and Scope of Regulatory Assessments of Licensed Clearing and Settlement Facilities* to determine the frequency and scope of detailed regulatory assessments against the relevant FSS for each of the licenced CS facilities. Using the criteria set out in this statement the Bank has determined that while it will assess the ASX CS facilities and LCH's SwapClear service against each of the relevant FSS on an annual basis, the nature and scope of CME's current activities in Australia mean that detailed assessments are not necessary. Instead the Bank limits its approach to updates on progress against regulatory priorities.

To facilitate the Bank's engagement with regulated entities to inform them of expectations, the Bank produces a set of recommendations for each of the CS facilities. The language used in the recommendations and the deadlines set for meeting each recommendation provide clarity regarding the Bank's priorities and expectations.

3.3.1 Reserve Bank assessment

The Bank has fulfilled the metrics agreed under this KPI. The survey for FMIs did not contain questions specifically directed to this KPI, and the Bank will consult with stakeholders on adding some questions in this regard for 2017. Stakeholders nevertheless provided some feedback on the Bank's risk-based approach to regulating CS facilities in responses to other questions. A common theme in this feedback was support for greater deference to the home regulator of overseas CS facilities, proportionate to the risk profile of the overseas CS facility in the Australian financial system and to minimise regulatory burden more generally. As indicated above, the Bank will give further consideration to the scope for greater reliance on foreign regulatory authorities. However, it should be noted that the Bank's approach is to only place reliance on a sufficiently equivalent overseas regulator in respect of matters related to those regulatory requirements for which a 'materially equivalent' standard is explicitly applied in the overseas regulatory regime. To the extent that other jurisdictions apply the international standards, a materially equivalent standard would be expected to apply in most cases. However, where the Bank's regulatory framework introduces complementary measures of particular relevance to the Australian context, including regulatory reporting and notification requirements and measures to enhance Australian regulatory influence over cross-border facilities, the Bank would expect to continue to engage directly with the overseas CS facility. That said, in the absence of material changes in an overseas CS facility's risk profile in the Australian financial system, the Bank's information requirements would likely moderate once a sufficient knowledge base for that CS facility had been established.

3.4 Compliance and monitoring approaches are streamlined and coordinated

The metrics for this KPI relate to: coordination with other regulators and reporting arrangements for CS facilities.

The feedback on domestic cooperation was unanimously positive, with one respondent noting that coordination with ASIC has improved in recent years. Coordination with and/or placing greater reliance on, overseas regulators was seen as an area that could be improved.

While one CS facility regarded the scope of data and reports as appropriate, the other respondents noted the significant scale of the Bank's information requests relative to either the past or other regulators' requests. Nevertheless, two respondents were supportive of the cooperation arrangements letters that provide CS facilities with certainty and clarity around all regular reporting and notification requirements. One respondent also expressed the view that establishing a central point of contact for formal requests of material is crucial to the proper functioning of the relationship. It was also suggested that, to protect the CS facilities, all requests from the Bank should be formalised under Section 821C(3) of the *Corporations Act 2001*. This Section states that 'A CS facility licensee must give such assistance to the Reserve Bank ..., or a person authorised by the Reserve Bank, as the Reserve Bank or the authorised person reasonably requests in relation to the performance of the Reserve Bank's functions under this Part.'

3.4.1 Reserve Bank assessment

The Bank coordinates effectively with ASIC and has processes in place to coordinate with the home regulator of overseas CS facilities. The Bank acknowledges that the latter arrangements are evolving, which is to be expected as the arrangements are relatively new. The Bank will continue to improve its

coordination with overseas regulators and, in line with its policies, rely on information provided by the home regulator where possible.

The Bank will also ensure that it has up-to-date cooperation arrangement letters in place with all CS facilities to ensure there is clarity on the scope and frequency of material the Bank requires on an ongoing basis. It will also establish a central point of contact for each CS facility. While the Bank will seek to understand the reasoning behind the suggestion that all requests be formalised, the Bank would be concerned if this adversely changed the nature of its relationship with CS facilities.

3.5 Regulators are open and transparent in their dealings with regulated entities

The metrics for this KPI relate to: the information the Bank publishes on its regulation; and CS facilities' assessment of the openness, transparency, consistency and predictability of the Bank in its dealings with the CS facility.

With the publication of summary feedback under this Framework in the Payments System Board's Annual Report, the Bank will have fulfilled all of the publication commitments it made under the Regulator Performance Framework. The Bank has published its assessment of each CS facility on the Bank's website and a summary of its work in the Annual Report. The Bank has also set out its approach to assessing CS facility licensees on its website. This is in addition to the previously mentioned guidance on the Bank's risk-based approach to regulation of CS facilities. Bank policy is that all publications on the Bank's website comply with the accessibility guidelines.

All the CS facilities considered the Bank as open and transparent in its dealings with CS facilities. It was noted by one CS facility that recent changes in personnel have occasionally led to an inconsistency in approach. This respondent encouraged holding training sessions, particularly when there are changes in personnel, to facilitate the Bank's understanding of the CS facility in a more structured way. Another respondent stated that, while the Bank's advice is consistent, it is potentially incompatible with the regulatory, legal and market structure in the home jurisdiction of overseas CS facilities, which reduces the predictability of the application of regulation and policy.

3.5.1 Reserve Bank assessment

The extent of the Bank's publications on both its approach and the outcome of its regulation of CS facilities underscores the importance it places on being open and transparent. This is supported by the feedback from CS facilities. The Bank works hard to provide significant continuity of staff in its oversight and supervision of FMIs, and will continue to explore ways to ensure consistency in its approach. Where there is turnover, the Bank is open to structured training sessions to facilitate new staff's understanding of CS facilities. In terms of the predictability of the application of regulation and policy to overseas CS facilities, the Bank believes that this should evolve as the relationship between overseas CS facilities, their home regulator and the Bank matures.

3.6 Regulators actively contribute to the continuous improvement of regulatory frameworks

The metrics for this KPI relate to: international policy development; engagement with CS facilities and reporting of stakeholder feedback to the Board.

As previously discussed, the Bank's regulatory framework is aligned with international principles, which has been verified in a recent peer review. The Bank is also actively engaged in the development of international policy. The Bank is a member of the joint CPMI and IOSCO Steering Group, which is responsible for developing the international standards in this area. The Bank is also represented on a number of CPMI-IOSCO working groups, including a group responsible for developing further guidance on CCP resilience and recovery. A Bank officer is also contributing to the work on enhancing resolution arrangements for central counterparties, which is being led by a working group under the Financial Stability Board's Resolution Steering Group.

Survey respondents were unanimous in describing their relationship with the Bank as cooperative and collaborative. The Bank has documented arrangements setting out its regular engagement with CS facilities. In 2015/16 it held 28 regular meetings with CS facilities.

Finally, the Bank has also provided a draft of this report, setting out stakeholder feedback to the Board.

3.6.1 Reserve Bank assessment

The Bank is an active contributor to international policy development. The Bank's openness to continuously improving its regulatory approach is underscored by the fact that the feedback provided in the survey responses was consistent with ongoing discussions with the CS facilities on how to improve the regulatory relationship.

Appendix 1: Retail Payment Systems Metrics

RPF KPIs	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
KPI 1 – Regulators do not unnecessarily impede the efficient operation of regulated entities	<p>Regulators demonstrate an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.</p> <p>Regulators take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains.</p> <p>Regulators implement continuous improvement strategies to reduce the costs of compliance for those they regulate.</p>	<p>Evidence of stakeholder consultation in development of any new regulations</p> <p>Demonstrated ongoing engagement with regulated entities and other stakeholders – including the Australian Payments Clearing Association, the Australian Payments Council and the Payments Consultation Group (of payments system end-users).</p>	<p>Rate the RBA's:</p> <p>understanding of the environment in which regulated entities operate</p> <p>awareness and understanding of emerging issues that affect the sector</p> <p>awareness of compliance costs and unintended consequences of administering, monitoring and enforcing regulation</p> <p>(defined scale, plus scope for free-form comments)</p> <p>Are there opportunities to reduce unintended consequences of administering, monitoring and enforcing regulation?</p> <p>Are there opportunities to reduce the compliance costs of those activities?</p>
KPI 2 – Communication with regulated entities is clear, targeted and effective	<p>Regulators provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience.</p> <p>Regulators consider the impact on regulated entities and engage with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards.</p> <p>Regulators' decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.</p> <p>Regulators' advice is consistent and supports predictable outcomes.</p>	<p>Publication of regulations and explanatory material</p> <p>Evidence of stakeholder consultation in development of any new regulations / changes to regulations</p>	<p>Rate:</p> <p>the RBA's level of engagement and consultation with stakeholders when developing or reviewing regulation</p> <p>the adequacy of guidance and information on regulation available to regulated entities</p> <p>the timeliness and clarity of the RBA's response to any requests for information or clarification on regulation.</p> <p>(defined scale, plus scope for free-form comments)</p>

RPF KPIs	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 3 – Actions undertaken by regulators are proportionate to the regulatory risk being managed</p>	<p>Regulators apply a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions.</p> <p>Regulators’ preferred approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.</p> <p>Regulators recognise the compliance record of regulated entities, including using earned autonomy where this is appropriate. All available and relevant data on compliance, including evidence of relevant external verification is considered.</p>	<p>Regulations permit self-certification of compliance where appropriate.</p> <p>The number and type of enforcement actions undertaken.</p>	<p>Please estimate in person-hours the time spent demonstrating compliance (rather than complying) with RBA regulation (e.g. certification).</p> <p>Please estimate in person-hours the time spent on activities to enable RBA monitoring of the payment system (e.g. preparing quarterly interchange reporting data).</p> <p>Is there any scope for a more risk-based approach to compliance and monitoring activities?</p>
<p>KPI 4 – Compliance and monitoring approaches are streamlined and coordinated</p>	<p>Regulators’ information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact.</p> <p>Regulators’ frequency of information collection is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, information is only requested once.</p> <p>Regulators utilise existing information to limit the reliance on requests from regulated entities and share the information among other regulators, where possible.</p> <p>Regulators base monitoring and inspection approaches on risk and, where possible, take into account the circumstance and operational needs of the regulated entity.</p>	<p>Documented arrangements for policy co-ordination and information sharing between the RBA and the ACCC in relation to payment systems.</p>	<p>Rate:</p> <p>the reasonableness of data requested by the RBA –in terms of scope, frequency and timing</p> <p>the reasonableness of other, <i>ad hoc</i> information requests from the RBA – in terms of scope, frequency and timing</p> <p>(defined scale, plus scope for free-form comments)Is there any scope to better align data requested with data used internally by the regulated entity?</p> <p>Is there scope for better alignment of data requirements or regulatory processes with other regulators?</p>
<p>KPI 5 – Regulators are open and transparent in their dealings with regulated entities</p>	<p>Regulators’ risk-based frameworks are publicly available in a format which is clear, understandable and accessible.</p> <p>Regulators are open and responsive to requests from regulated entities regarding the operation of the regulatory framework, and approaches implemented by regulators.</p> <p>Regulators’ performance measurement results are published in a timely manner to ensure accountability to the public.</p>	<p>Publication of regulatory objectives</p> <p>Publication of regulatory developments in Payments System Board (PSB) Annual Report</p> <p>Publication of summary of feedback in PSB Annual Report</p> <p>Publication of policies and reports complies with accessibility guidelines</p>	<p>Rate the RBA’s openness and responsiveness to requests/queries regarding the operation of the regulatory framework.</p> <p>(defined scale, plus scope for free-form comments)</p>

RPF KPIs	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 6 – Regulators actively contribute to the continuous improvement of regulatory frameworks.</p>	<p>Regulators establish cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.</p> <p>Regulators engage stakeholders in the development of options to reduce compliance costs. This could include industry self-regulation, changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches.</p> <p>Regulators regularly share feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative processes.</p>	<p>RBA engagement in domestic and international policy research on retail payments (qualitative)</p> <p>Engagement with regulated entities and other stakeholders – categorised by trigger for engagement (count).</p> <p>Reporting of stakeholder feedback to the PSB</p>	<p>Taking the existing regulatory framework as given, are there opportunities to reduce the costs of complying with regulation (i.e. costs arising from the way in which regulation is applied/compliance assessed)?</p>

Appendix 2: CS Facility Metrics

Key Performance Indicators	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 1 - Regulators do not unnecessarily impede the efficient operation of regulated entities</p>	<p>Regulators demonstrate an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.</p> <p>Regulators take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains.</p> <p>Regulators implement continuous improvement strategies to reduce the costs of compliance for those they regulate.</p>	<p>Is a regular review of compliance/regulatory approach conducted?</p> <p>Alignment with international best practice (e.g. results of PFMI responsibilities assessment for Australia)</p> <p>Evidence of stakeholder consultation in development of any new standards / changes to standards</p> <p>Demonstrated engagement with relevant international regulators (and, where relevant, other industry participants) to learn from peer experiences and share better practices</p>	<p>Are the RBA's regular scheduled engagements with the CS facility (e.g. scheduled operational and executive level meetings) an effective method of exchanging pertinent information with the RBA, including regarding compliance issues, without imposing unnecessary burden? How could their effectiveness be improved? Please consider the frequency and length of meetings, the appropriateness of the attendees, the agenda, the level of preparation.</p> <p>Are the RBA's engagements with the CS facility on emerging issues effective in ensuring there is an open and timely exchange of views and information? How could their effectiveness be improved? Please consider the timeliness of such engagements and the appropriateness of the attendees.</p> <p>Does the RBA demonstrate an understanding of the CS facility's operating environment? If not, please give examples.</p>

Key Performance Indicators	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 2 - Communication with regulated entities is clear, targeted and effective</p>	<p>Regulators provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience.</p> <p>Regulators consider the impact on regulated entities and engage with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards.</p> <p>Regulators' decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.</p> <p>Regulators' advice is consistent and supports predictable outcomes.</p>	<p>Publication of standards and guidance material (yes/no)</p> <p>Evidence of stakeholder consultation in development of any new standards / changes to standards</p>	<p>Has the RBA adequately consulted with the CS facility regarding all relevant proposed changes to its regulation of CS facilities? How could the RBA's consultation with CS facilities (e.g. consultation papers, consultation meetings) on policy development be improved? Please consider the clarity and timeliness of such engagements.</p> <p>Are the RBA's expectations, decisions and advice (including with respect to requests/queries regarding the operation of the regulatory framework) communicated in a clear and timely manner? How could the RBA's communication with the CS facility be improved?</p> <p>Are the RBA's published materials regarding its supervision of CS facilities (e.g. Financial Stability Standards, Assessments, consultations) up to date, clear, accessible and concise? If not, what improvements could be made?</p>
<p>KPI 3 - Actions undertaken by regulators are proportionate to the regulatory risk being managed</p>	<p>Regulators apply a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions.</p> <p>Regulators' preferred approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.</p> <p>Regulators recognise the compliance record of regulated entities, including using earned autonomy where this is appropriate. All available and relevant data on compliance, including evidence of relevant external verification is considered.</p>	<p>Application of graduated framework (& publication of that framework as set out in CFR appropriate influence policy and the FSS)</p> <p>Publicly available graduated approach to assessing CS facilities & frequency of assessments</p> <p>Demonstrated engagement with regulated entities to inform them of expectations by production of regulatory priorities & ability for regulated firms to provide feedback. (qualitative)</p>	

Key Performance Indicators	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
KPI 4 - Compliance and monitoring approaches are streamlined and coordinated	<p>Regulators' information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact.</p> <p>Regulators' frequency of information collection is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, information is only requested once.</p> <p>Regulators utilise existing information to limit the reliance on requests from regulated entities and share the information among other regulators, where possible.</p> <p>Regulators base monitoring and inspection approaches on risk and, where possible, take into account the circumstance and operational needs of the regulated entity.</p>	<p>Coordination with overseas regulators [re – data, assessments, reliance, prioritization of work] (qualitative)</p> <p>Coordination with ASIC (qualitative)</p>	<p>Does the RBA appropriately coordinate regulatory requests and other regulatory engagement with other Australian regulators (including ASIC) where appropriate? How could such coordination be improved?</p> <p>Does the RBA appropriately coordinate regulatory requests and other regulatory engagement with the CS facility's home/primary regulator where appropriate (where relevant)? How could such coordination be improved?</p> <p>Is the scope of the regular data and reports required by the RBA appropriate? How could these reporting arrangements be improved? Please consider the extent to which required data and reports align with those generated for other purposes (e.g. internal risk management or disclosure to participants). Are the frequency and timing of regular reporting requirements and/or ad-hoc data requests appropriate?</p>
KPI 5 - Regulators are open and transparent in their dealings with regulated entities	<p>Regulators' risk-based frameworks are publicly available in a format which is clear, understandable and accessible.</p> <p>Regulators are open and responsive to requests from regulated entities regarding the operation of the regulatory framework, and approaches implemented by regulators.</p> <p>Regulators' performance measurement results are published in a timely manner to ensure accountability to the public.</p>	<p>Information published regarding approach to supervision (yes/no)</p> <p>Publication of assessment and summary of work in annual report (yes/no)</p> <p>Publication of summary of feedback in PSB Annual Report</p> <p>Publication of policies and reports complies with accessibility guidelines</p>	<p>Is the RBA open and transparent in its dealings with the CS facility? If not, please give examples.</p> <p>Is the RBA advice to the CS facility regarding the application of regulation or policy (e.g. including but not limited to the application of the Financial Stability Standards and the CFR's 'Appropriate Influence Policy') consistent and predictable? If not, please give examples.</p>

Key Performance Indicators	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 6 - Regulators actively contribute to the continuous improvement of regulatory frameworks.</p>	<p>Regulators establish cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.</p> <p>Regulators engage stakeholders in the development of options to reduce compliance costs. This could include industry self-regulation, changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches.</p> <p>Regulators regularly share feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative processes.</p>	<p>Alignment of regulatory framework with international principles (yes/no)</p> <p>RBA engagement in development of international policy (qualitative)</p> <p>Documented procedures are in place to allow active and regular engagement with CS facilities, as per published approach to assessing CS facilities (yes/no supported by quantitative details re number of regular quarterly/semi-annual meetings held with CS facilities)</p> <p>Reporting of stakeholder feedback to the PSB</p>	<p>Do you believe your relationship with the RBA is appropriately cooperative and collaborative? If not, how could this be improved?</p>

Appendix 3: Retail Payments Systems: Summary of Feedback

Table 1: Retail Payments Regulation

Range and Average Ratings on Numerical Key Performance Indicator (KPI) Metrics

KPI	Metric	Range^(a) (out of 10)	Average^(a) (out of 10)
Regulators do not unnecessarily impede the efficient operation of regulated entities	understanding of the operating environment	6 – 8	6.7
	awareness and understanding of emerging issues that affect the sector	5 – 6	5.7
	awareness of compliance costs and unintended consequences of administering, monitoring and enforcing regulation	6 – 9	7.0
Communication with regulated entities is clear, targeted and effective	level of engagement and consultation with stakeholders when developing or reviewing regulation	8 – 9	8.7
	adequacy of guidance and information on regulation available to regulated entities	6 – 9	7.7
	timeliness and clarity of response to any requests for information or clarification on regulation	8 – 9	8.7
Compliance and monitoring approaches are streamlined and coordinated	reasonableness of data requested – in terms of scope, frequency and timing	7 – 9	8.3
	reasonableness of other, ad hoc information requests – in terms of scope, frequency and timing	3.5 – 9	7.2
Regulators are open and transparent in their dealings with regulated entities	openness and responsiveness to requests/queries regarding the operation of the regulatory framework	6 – 9	7.7

(a) Ratings are from 1 to 10. Discussion in the body of this assessment treats 1 and 2 as 'very poor', 3 and 4 as 'poor', 5 and 6 as 'satisfactory', 7 and 8 as 'good', and 9 and 10 'very good'.

Appendix 4: Validation of Draft Assessment

On 27 September 2016, the regulated entities were provided with a copy of the Bank's draft assessment and asked for their views on whether the conclusions in the draft assessment were broadly accurate, reasonable and appropriate.

The majority of regulated entities did not consider it necessary to provide detailed feedback on the draft assessment. Of the retail payment schemes, two indicated that they did not have any comments to make, while the third provided some oral feedback. The feedback from this scheme related to the timing of the Bank's consultations (noting that availability of staff was typically constrained during December–January, so longer consultation timeframes were preferable for this time of year) and to the issue of providing direct access to the Payments System Board. Both aspects of this scheme's feedback are incorporated in the final assessment. The Bank has generally ensured that consultation periods are longer when they overlap with holiday periods. Direct access to the Payments System Board is now facilitated through a meeting between the Board and the Australian Payments Council, and the Board considers that this is an appropriate channel for more direct engagement.

Of the three CS facility operators, two did not provide comments on the draft assessment. Feedback from the third CS facility was focused on the proportionality of the Bank's supervisory approach to overseas operators. As discussed in this assessment, the Bank already considers, and will consider further, the scope for greater reliance on a CS facility's home regulator, proportionate to the CS facility's systemic importance in the Australian financial system. The CS facility also noted that, notwithstanding that the draft survey questionnaire had been sent to regulated entities before being finalised, the questionnaire did not provide adequate opportunities to comment on KPI 3. The Bank will consult with CS facilities on additional questions for this KPI in the survey for 2017.