

# 2017/18 Assessment under the Regulator Performance Framework

December 2018

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# Introduction and Summary of Assessment

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## 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 (KPIs) that 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, 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.<sup>1</sup> 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, 2 and 3 for details).

To support its third assessment, the Bank surveyed the retail payment participants and CS facilities it regulates. To encourage frank feedback, the surveys were collected by 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 provide feedback on the conclusions and to 'validate' the draft version of the assessment.

Each assessment is set out under the six KPIs 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.

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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>.

## Summary of Assessment

With respect to its regulation of **retail payment systems**, the Bank is assessed to have met the KPIs in 2017/18. Responses on average indicated that the Bank performed well across all indicators. Feedback varied across stakeholders responding to the survey, but was largely positive overall, and entities provided a range of suggestions on areas for the Bank to further improve.

Regulated entities typically rated the Bank's efforts to foster effective relationships with stakeholders positively, and this was generally seen as contributing to the Bank's good understanding of the environment faced by regulated entities and emerging issues. On the latter, the Bank has a strong focus on engaging closely with industry and other stakeholders on the impact of emerging technology and changing competitive dynamics on payments systems and what this might mean for the regulatory environment.

Stakeholders generally had positive views on the adequacy of the Bank's consultation processes, noting the Bank consults widely and its staff make themselves available to stakeholders. The Bank's regulatory materials such as consultation documents, media releases and 'frequently asked questions' were regarded as clearly written and useful resources for understanding regulations. Some participants noted that it was important for the Bank to communicate with a diverse range of entities. The Bank is generally seen as being responsive to requests for clarification.

Respondents considered that processes for monitoring and ensuring compliance with regulation were not overly onerous, with ongoing reporting obligations and ad hoc requests generally viewed as being reasonable. However, the Bank should also be mindful of providing advice on the context of requests and the intended use of the information requested. While some stakeholders argued the Bank should have a greater appreciation of the complexities, costs and time involved for regulated entities to comply with regulations, others noted that the Bank provides reasonable transition periods for new regulations.

With respect to its regulation of **CS facilities**, the Bank is also assessed as having met the KPIs, 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. However, the Bank will keep the process of annual assessments and publication of reports under review with a view – without compromising the benefits of disclosure – to minimising the burden on regulated entities.

The feedback on cooperation between the domestic regulators was unanimously positive, with coordination between the Bank and the Australian Securities and Investment Commission (ASIC) continuing to improve. However, coordination with and/or placing greater reliance on, overseas regulators was seen as an area for ongoing improvement. The Bank acknowledges that the latter arrangements are evolving and will continue working to improve coordination with overseas regulators.

All of the CS facilities agreed that the Bank generally demonstrates a good understanding of the facilities' operating environment. The Bank's communication with CS facilities is considered to be clear, targeted and effective.

A number of possible actions have been identified by this assessment. These are summarised in Box A.

As noted, stakeholders were also given the opportunity to provide feedback on a draft version of this assessment. All of the stakeholders that responded agreed the document was a fair assessment of their responses to the survey and they supported the actions that had been identified. One stakeholder noted the risk that some of the actions identified in the assessment (summarised in Box A) could lengthen the Bank's consultation processes, which in a rapidly changing payments environment could have adverse implications on market participants. The Bank acknowledges this concern but notes that it is required to undertake a thorough public consultation when considering regulation. The Bank strives to address policy concerns as quickly as possible and imposes regulation only where it considers it necessary in the public interest and where the industry is unable or unwilling to address the Bank's concerns.

## Box A: Actions Identified in this Assessment<sup>2</sup>

### Retail Payment Systems

- continue to engage with a diverse range of entities in order to understand the operating environment, emerging trends and technology
- continue efforts to communicate clearly with stakeholders and others, including in relation to regulatory guidance
- continue to engage with regulated entities to ensure that the Bank is fully aware of the implications of policies and regulations, including implementation and compliance issues
- continue to review compliance and information-gathering processes to minimise costs and uncertainties for regulated entities

### Clearing and Settlement Facilities

- ongoing review of the annual assessment process, with the objective of minimising the burden on regulated entities without compromising the benefits of disclosure
- continue to improve coordination with overseas regulators, giving consideration to the scope for greater reliance on foreign regulatory authorities where appropriate
- explore opportunities to further streamline agendas for operational meetings between the Bank and CS facilities and ensure the scope of questions for these meetings remains targeted

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<sup>2</sup> See Appendix 4 for a summary of Actions Identified in the 2016/17 Assessment.

# Retail Payment Systems

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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, with minor adjustments to questions in response to feedback on the 2015/16 survey (Appendix 1), and draws on input from stakeholders gathered through an anonymous survey. The stakeholder group consisted of the four payment card schemes and a representative sample of ten of the acquirers which were subject to Reserve Bank regulation during the assessment period.<sup>3</sup> Of the recipients of the survey, two schemes and eight acquirers responded. A summary of the numerical survey responses is provided in Appendix 3.

## **KPI 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, unintended consequences 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 a range of stakeholders in an effort to understand emerging issues and the environment in which regulated entities operate. This includes consultation with relevant parties in relation to possible regulatory initiatives and associated compliance issues. In 2017/18, Payments Policy staff held around 200 meetings on retail payments issues. This includes only formally scheduled meetings with senior Payments Policy staff; it does not include numerous less formal interactions, nor meetings between the Payments System Board Chair or Deputy Chair with stakeholders. Over the past year, the Bank has actively sought opportunities to further its understanding of emerging issues in relation to technology and its potential application to payments. The Bank also convened two meetings of the Payments Consultation Group which was established with the aim of providing a more structured mechanism for users of the payments system – including merchants, government agencies and consumer groups – to provide feedback on the payments system, emerging issues and policy.

Stakeholders on average rated the Bank's understanding of the operating environment for regulated entities and its awareness of emerging issues as good. Some respondents suggested that there was scope for the Bank to further improve its understanding of certain aspects of the market, including potential competitive responses to regulation by different participants and possible competition from new, unregulated entities.

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3 In mid 2017 new transparency requirements in Standard No. 3 of 2016 came into effect whereby acquirers are required to provide monthly statements to their merchant customers which contain information about payment costs.

Respondents rated the Bank's awareness of unintended consequences of administering, monitoring and enforcing its regulation as satisfactory, with some respondents indicating that this was an area where they saw room for the Bank to improve. For example, some card acquirers observed that an unintended consequence of the details of the new RBA Standard on merchant surcharging was that it was complex and difficult for some stakeholders to implement. One stakeholder also suggested that post-implementation reviews would help improve the Bank's awareness of any unintended effects of policy, in terms of both administrative issues and the effectiveness of regulation.

The Bank's efforts to minimise compliance costs were rated as satisfactory on average, although there was a range of views across survey respondents. Whereas one stakeholder was of the view that the Bank had made little effort to understand compliance costs, some others noted that the Bank was proactive in its efforts to understand and minimise costs for regulated entities.

### Reserve Bank assessment

The Bank will continue to engage extensively with a diverse range of stakeholders and other entities, while looking for opportunities to extend the range of organisations with which the Bank interacts. In doing so, the Bank will seek to further its understanding of emerging issues, including in relation to technology and competitive dynamics in the payments industry.

With regard to concerns raised about the complexity of the Bank's 2016 surcharging standard, the standard was introduced in the public interest following extensive stakeholder consultation. The Bank will continue to provide guidance to regulated entities as required and has published a Q&A page on its website to assist merchants, consumers and others understand the new requirements. The Bank will also continue to liaise with staff from the Australian Competition and Consumer Commission (ACCC) regarding feedback that it receives on the surcharging framework.

## **KPI 2 Communication with regulated entities is clear, targeted and effective**

The metrics for this KPI relate to: publication of regulations and explanatory material; evidence of stakeholder consultation and stakeholders' assessment of engagement when developing or reviewing regulation; stakeholders' assessment of the adequacy of the guidance and information provided to regulated entities; and stakeholders' assessment 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 instrument and, if required, a Regulation Impact Statement. In addition, the Bank publishes 'Frequently Asked Questions' in plain English on certain occasions, especially where there are a range of different types of stakeholders potentially affected by the regulation.

Most respondents noted that the Bank engages well with stakeholders and communicates clearly with regard to regulatory matters. The average rating for this KPI was good. Bank staff were viewed as being available to stakeholders and responsive to requests for clarification on regulations, which was generally viewed as timely and helpful. One entity was, however, of the view that more detailed guidance material would be useful to assist with the implementation of regulation.

Respondents generally described written material, such as consultation documents and other regulatory information, as being clear and useful. One respondent suggested that more frequent written updates on the progress of consultations would be helpful.

### Reserve Bank assessment

Feedback on the effectiveness of the Bank's engagement with stakeholders, communication and regulatory guidance was largely positive. The Bank will seek to make ongoing improvements in this regard, including by using clear, non-technical language in its communications and by providing clear regulatory guidance. As noted, the Bank has sought to extend the range of entities with which it interacts and will continue to look for opportunities to engage with a diverse set of interested parties.

## **KPI 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. Respondents were also asked for views on the scope for a more risk-based approach to regulation.

Regulated card schemes' estimates of their costs of demonstrating compliance during 2017/18 were between 35 and 60 person hours. This is broadly similar to estimates for the previous year, prior to the new interchange standards coming into effect. There was greater variation in estimated person hours expended on compliance for card acquirers; while estimates generally ranged between 25-70 person hours, a couple of respondents reported estimates that were well above this range. There were no enforcement actions undertaken during 2017/18. Participants that provided feedback on the scope for a more risk-based approach to regulation generally indicated that the current approach was sufficient. One respondent was of the view that the Bank should rely less on self-certification of regulatory compliance.

### Reserve Bank assessment

The majority of estimates of person hours expended to demonstrate compliance with Bank regulation remain relatively modest and there have been no enforcement costs. While a couple of card acquirers reported that time spent on demonstrating compliance was more significant, their estimates of expended person hours were difficult to reconcile with the experience of the majority of respondents.

## **KPI 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 ACCC; stakeholders' assessment of the reasonableness of data and other *ad hoc* information requests by the Reserve Bank in terms of scope, frequency and timing; 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, which is published on the Bank's website.

On average, regulated entities rated the reasonableness of data requests by the Bank and the reasonableness of other *ad hoc* information requests as good. It was noted that the Bank's processes for monitoring compliance are not onerous, with most respondents describing the scope, frequency and timing as appropriate and reasonable. However, one respondent suggested that the Bank could be more transparent and active in its monitoring of compliance, and should be mindful of taking information provided by regulated entities 'at face value'. It was also suggested that the Bank could usefully provide further information on the context and purpose of data requests. While one entity noted that it would be helpful to better align data used by the Bank more closely to those used by entities for their own activities, several others saw little scope for improvement in this regard.

### Reserve Bank assessment

The generally positive survey responses indicate that the Bank's compliance and monitoring processes are reasonable. When requesting data or other information, the Bank will continue to be mindful of the constraints on regulated entities' time and resources, and will consult closely with regulated entities with regard to the purpose for which the information is being sought.

## KPI 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; stakeholders' assessment of the adequacy of the information that the Bank makes available publicly on its approach to regulation and the regulatory framework; and stakeholders' assessment of the Bank's responsiveness to enquiries regarding the operation of the regulatory framework.

The Bank's objectives and approach for regulation are published on its website.<sup>4</sup> Regulatory and other policy developments during each financial year are described in the Payments System Board Annual Report. The Bank aims to meet the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA standard where practicable.

Stakeholders' assessment of the adequacy of the information that the Bank makes available publicly on its approach to regulation and the regulatory framework ranged from satisfactory to very good. Respondents generally provided a favourable assessment, noting that information was easily accessible and clearly presented. One respondent saw potential for further improvement by publishing clearer information on the Bank's upcoming regulatory focus areas.

Respondents had similar views with respect to the Bank's responsiveness to requests and queries regarding the operation of the regulatory framework, with a range of stakeholders' assessing the Bank to be highly responsive to requests for clarification, with feedback including that the Bank's responses were helpful and timely.

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4 <<https://www.rba.gov.au/payments-and-infrastructure/payments-system-regulation/approach-to-regulation.html>>

## 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 appreciates that stakeholders have an interest in the Bank's strategic priorities and medium-term payments work agenda and it has published material on this in the Payments System Board's 2017 Annual Report.

## **KPI 6 Regulators actively contribute to the continuous improvement of regulatory frameworks**

Survey participants were asked to rate the Bank's efforts to establish and maintain cooperative and collaborative relationships with stakeholders. Additional metrics for this KPI, which are assessed internally by the Bank, relate to: Reserve Bank engagement in domestic and international policy research on retail payments; frequency of engagement with regulated entities and other stakeholders; and reporting of stakeholder feedback to the Payments System Board.

The Bank's Payments Policy Department conducts 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 2017/18, the Bank participated in a number of international groups that deal with payments regulation, including the Committee for Payments and Market Infrastructures and its working group on Retail Payments Digital Innovation, and the EMEAP Working Group on Payment and Settlement Systems. The Bank has also engaged extensively with regulated entities and other stakeholders. As noted, the Bank held over 200 formally scheduled stakeholder meetings related to retail payments during 2017/18. Around two-thirds of these were initiated by stakeholders; the remainder were initiated by the Bank or were standing engagements. The majority of these meetings related to issues of potential regulatory relevance or discussions of industry developments, and a number focused on clarification of regulation or the Bank's regulatory approach.

Stakeholder feedback gathered through the Regulator Performance Framework process was reported to the Payments System Board.

The majority of regulated entities rated the Bank's efforts to foster effective relationships with stakeholders as good or very good. In terms of area for potential improvement, one entity noted that it was important for the Bank to take account of diverse views to ensure that all perspectives are considered.

## Reserve Bank assessment

The Bank strives to maintain cooperative and collaborative relationships with all stakeholders, particularly regulated entities. The majority of respondents rated the Bank positively in this regard, indicating that the Bank generally maintains constructive working relationships.

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 2017/18, issues relating to the future of retail payments and financial

technology, including digital currencies and distributed ledger technology, continued to be a significant focus of these efforts, both domestically and internationally.

The Payments System Board has direct engagement with the industry through its annual meetings with the Australian Payments Council. The Chair and Deputy Chair of the Board also at times meet with various stakeholders, typically senior executives of international schemes and other stakeholders. Otherwise, it remains appropriate for the Board to receive its briefings from Bank staff who have consulted widely with stakeholders and can present the full range of views of those stakeholders.

# Clearing and Settlement Facilities

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The following section sets out the Reserve Bank's assessment under the 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, with one additional question added in response to feedback on the 2015/16 survey (Appendix 2). For the purposes of the 2017/18 self-assessment, each of the relevant stakeholders – ASX (on behalf of its four CS facilities), Chicago Mercantile Exchange (CME) and LCH Ltd – was invited to respond to the CS facility survey. This year only two of the CS facilities chose to respond to the survey. However, all CS facilities take the opportunity to provide feedback through their ongoing dialogue with the Bank; the information provided through the RPF surveys was consistent with the feedback the Bank has received directly from entities through the course of the year.

## **KPI 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; stakeholders' assessment of the Bank's understanding of their operating environment; and the quality of the Bank's engagement with regulated entities.

To ensure the Bank does not unnecessarily impede the efficient operation of the CS facilities, the Bank's regulatory framework is closely aligned with international standards. In 2017/18 the Bank and ASIC undertook a joint self-assessment of how well the agencies have met their responsibilities under a framework established by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions (CPMI-IOSCO) and set out in the 'Responsibilities of central banks, market regulators and other relevant authorities for financial market infrastructures' (the Responsibilities). The joint self-assessment, which was published on the Bank's website in July, concluded that the agencies had met all of the Responsibilities and that the Bank has implemented actions to enhance the review and challenge of oversight decisions and establish additional formal cooperation arrangements with overseas authorities.

ASIC and the Bank have committed to publish updated self-assessments against the Responsibilities with respect to CS facilities at least every five years, or if there are material changes. The Bank will also look to develop a formal escalation and communication framework for incidents that affect FMIs, which takes into account cross-department, inter-agency and FMI stakeholder's needs. The IMF provided an independent assessment of ASIC and the Bank against these Responsibilities as part of their Financial Sector Assessment Program mission in 2018.

The Bank actively contributes to CPMI-IOSCO committees and working groups, as well as the implementation monitoring exercises conducted by CPMI-IOSCO. These activities provide an opportunity for the Bank to learn from other regulatory peers and contribute to assessments of other jurisdictions. This is in addition to its regular engagement with the home regulators of overseas CS facilities that are licenced in Australia.

The Bank has also been involved in consultations with relevant stakeholders on competition in settlement of Australian cash equities. The response to those consultations was published by the Council of Financial Regulators in September 2017.

All the respondents to the CS facility survey acknowledged that the Bank generally demonstrates a good understanding of the facilities' operating environment. However, one entity noted that, from time to time, turnover of Bank staff can impact the time and resources required of CS facilities when they are updating the Bank on new projects and other developments.

CS facilities indicated that the Bank had been effective in ensuring an open and timely exchange of information through both scheduled engagements and the management of emerging issues. The regular scheduled engagements were described as effective and the frequency and length of meetings as appropriate, resulting in a structured approach to the exchange of information. The Bank's efforts over the past 18 months to streamline regulatory engagement timetables and keep CS facilities apprised of upcoming issues were acknowledged.

One CS facility highlighted the importance of continuous review to ensure that the arrangements put in place continue to meet the needs of regulators while avoiding unnecessary burden on regulated entities. It was also suggested that the effectiveness of engagement could be further enhanced by: planning tighter agendas for operational meetings; considering the scope of questions; and ensuring all questions are materially significant.

### 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. The Bank's engagement with CS facilities is generally effective and has been enhanced by implementing a number of suggestions over the past year. In particular greater transparency around the timeline of activities and ongoing efforts to keep entities fully apprised of upcoming issues has been beneficial. The Bank intends to continue engaging with the CS facilities to ensure ongoing improvement in its approach to regulation. The Bank intends to further explore opportunities to streamline agendas for quarterly operational meetings and ensure that the scope of questions for these meetings are targeted and relevant.

## **KPI 2 Communication with regulated entities is 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.

CS facilities responded positively with respect to the Bank's communications, describing it as clear, timely, transparent and accessible. The Bank was described as receptive to feedback and willing to engage collaboratively. The information the Bank publishes on its website was considered to be timely, clear and comprehensive. One CS facility indicated that initiatives established in response to feedback from the 2016/17 survey have helped to reduce duplication and enhance communication.

The Bank makes its formal assessment reports on CS facility licensees publicly available on its website, with the Bank's oversight activities in respect of CS facilities disclosed annually in the PSB's Annual Report.

There were no changes in the Bank's Financial Stability Standards (FSS) over 2017/18. However the Bank formally adopted new CPMI-IOSCO guidance on resilience, recovery and cyber resilience which narrow its interpretation of the relevant FSS. The Bank communicated its intention to apply the additional guidance in advance, both directly to the CS facilities and by updating its website.

CS facilities acknowledged there was significant consultation leading up to the introduction of the additional guidance, with one describing the Bank's receptiveness to feedback as principled and pragmatic. One of the respondents highlighted the challenges of responding to the related international surveys and questionnaires in a timely manner, especially when requests for information coincided with the Bank's assessment of the CS facility. However it was recognised that this was somewhat outside of the Bank's control.

### Reserve Bank assessment

Objective measures, and feedback from regulated entities, suggest that the Bank's communication with CS facilities is generally clear, targeted and effective. In particular, survey responses note the Bank's collaborative approach and its receptiveness to feedback.

## **KPI 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; its engagement with regulated entities to inform them of expectations; and the CS facilities' feedback on the Bank's graduated approach.

CS facilities generally appreciated the graduated approach to oversight of licensed CS facilities adopted by the Bank. A common theme in the feedback the Bank receives has been support for greater deference to the home regulator of overseas CS facilities. In this regard the Bank was encouraged to continue efforts to coordinate with the home regulators, placing further reliance on them where appropriate.

Over 2016/17, the Bank reviewed its approach to published assessments to provide further clarity regarding the Bank's priorities and expectations. As a result, the Bank's assessment reports are now shorter, decreasing the regulatory burden on CS facilities when reviewing these reports. While acknowledging the reduction in the amount of detail included in published reports as a positive development, one CS facility reiterated a suggestion that the Bank should make greater use of the flexibility it has to look for further efficiencies, for example by conducting thematic reviews. It was suggested that, while the published assessment reports may be shorter, the scope of annual assessments has increased.

### Reserve Bank assessment

The Bank acknowledges there is a degree of judgement in its approach to engagement with overseas CS facilities, but it seeks to provide clarity through its bilateral engagement with each CS facility. Over the last year, the Bank has also sought to clarify where it places reliance on foreign regulatory authorities in its published assessments. Currently, the focus of the Bank's supervision of the overseas CS facilities licensed in Australia is the complementary measures in the Australian regulatory framework, which are not covered in overseas regulatory regimes.

The Bank's review of its approach to published assessments has resulted in shorter and more targeted reports. In part this reflects the absence of material changes in overseas CS facilities' risk profiles in the Australian financial system.

## **KPI 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 from all respondents remained positive, with one CS facility noting that coordination between the Bank and ASIC has been greatly enhanced in recent years. Coordination with and/or placing greater reliance on, overseas regulators is still seen as an area that could be improved.

One CS facility indicated that the scope of data and reports requested by the Bank is appropriate, and was supportive of the cooperation arrangement letters, stating that they provide certainty and clarity around regular reporting and notification requirements. Another respondent noted that the scope of data and reports requested by the Bank has increased, as had requests for data from regulators in other jurisdictions. It was noted that the required format of data requests from the Bank and international regulators tend to vary. The Bank was encouraged to pursue innovative IT solutions to support the exchange of large volumes of data and ensure secure access.

### **Reserve Bank assessment**

The Bank has 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. These documents are reviewed and updated as required. The Bank will continue its efforts to improve coordination with overseas regulators and, in line with its policies, rely on information provided by the home regulator where possible. The Bank has initiated a project to enhance and streamline its data collection processes.

## **KPI 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.

The Bank has fulfilled all of the publication commitments 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.

All respondents considered the Bank to be open and transparent in its dealings with CS facilities and described the Bank's advice to entities as generally consistent and predictable. One respondent noted that changes in personnel have occasionally led to an inconsistency in approach.

## Reserve Bank assessment

Both survey and non-survey metrics support the openness and transparency of the Bank's regulation of CS facilities. The Bank has implemented a structured internal training program 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 is confident this will continue to move forward as the relationship between overseas CS facilities, their home regulator and the Bank matures.

## **KPI 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 outlined above, the Bank's regulatory framework is aligned with international standards, and the Bank continues to be actively engaged in the development of international policy. Survey respondents continued describing their relationship with the Bank as cooperative and collaborative, while noting that ongoing efforts to improve engagement will enhance the relationship over time. In 2017/18 the Bank held 19 regular meetings with CS facilities (compared with 25 in the previous period). The reduced number of meetings over the period largely reflects a change from monthly to quarterly meetings wherever possible. Feedback from CS facilities suggested this change has worked well.

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

## 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

Key Performance Indicators (KPIs)	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>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> <ul style="list-style-type: none"> <li>understanding of the environment in which regulated entities operate</li> <li>awareness and understanding of emerging issues that affect the sector</li> <li>awareness of any unintended consequences of administering, monitoring and enforcing its regulation</li> <li>efforts to minimise compliance costs on regulated entities associated with its regulation.</li> </ul> <p>(defined scale, plus scope for free-form comments)</p> <p>Are there opportunities for the RBA to reduce unintended consequences of administering, monitoring and enforcing its regulation?</p> <p>Are there opportunities for the RBA to reduce the compliance costs associated with its regulation?</p>

Key Performance Indicators (KPIs)	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
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 engagement with stakeholders when developing or reviewing regulation</p> <p>the adequacy of the guidance and information the RBA provides to regulated entities on its regulation</p> <p>the RBA's responses to any of your requests for information or clarification on RBA regulation.</p> <p>(defined scale, plus scope for free-form comments)</p>
KPI 3 – Actions undertaken by regulators are proportionate to the regulatory risk being managed	<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 in the last year demonstrating compliance (rather than complying) with RBA regulation (e.g. certification, provision of interchange data).</p> <p>Is there any scope for a more risk-based approach to compliance and monitoring activities?</p>
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>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)</p> <p>Is there any scope to better align data requested by the RBA from you with data that you use internally?</p> <p>Is there scope for better alignment of data requirements or regulatory processes with other regulators?</p>

Key Performance Indicators (KPIs)	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
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>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:</p> <p>the adequacy of the information that the RBA makes available publicly on its approach to regulation and regulatory framework</p> <p>the RBA's responsiveness to requests/queries regarding the operation of the regulatory framework. (defined scale, plus scope for free-form comments)</p>
KPI 6 – Regulators actively contribute to the continuous improvement of regulatory frameworks	<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>Rate the RBA's efforts to establish and maintain cooperative and collaborative relationships with stakeholders. (defined scale, plus scope for free-form comments)</p> <p>Please comment on any other aspects of the administration, monitoring or enforcement of the RBA's regulation which you do not feel have been adequately covered in any of the questions above.</p>

## Appendix 2: CS Facility Metrics

Key Performance Indicators (KPIs)	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 (KPIs)	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 or changes to existing 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 (&amp; publication of that framework as set out in the CFR appropriate influence policy and the FSS).</p> <p>Publicly available graduated approach to assessing CS facilities &amp; frequency of assessments.</p> <p>Demonstrated engagement with regulated entities to inform them of expectations by production of regulatory priorities &amp; ability for regulated firms to provide feedback. (qualitative)</p>	<p>The Bank applies a graduated approach to oversight of licensed CS facilities, which is designed to be proportionate to the regulatory risk being managed. This approach is set out in the Bank's policy statement <i>Frequency and Scope of Regulatory Assessments of Licensed Clearing and Settlement Facilities</i> and the Council of Financial Regulators' policy statement <i>Ensuring Appropriate Influence for Australian Regulators over Cross-border Clearing and Settlement Facilities</i>. Are there other ways in which the Bank could be applying this graduated approach, that balance the regulatory impact on CS facilities while still meeting its oversight responsibilities and policy objectives?</p>

Key Performance Indicators (KPIs)	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 (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>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 qualitative 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 <sup>(a)</sup> (out of 5)	Average <sup>(a)</sup> (out of 5)
Regulators do not unnecessarily impede the efficient operation of regulated entities	– understanding of the environment in which regulated entities operate	3–5	3.8
	– awareness and understanding of emerging issues that affect the sector	2–5	3.6
	– awareness of unintended consequences of administering, monitoring and enforcing regulation	2–5	3.1
	– efforts to minimise compliance costs on regulated entities associated with regulation	2–4	3.3
Communication with regulated entities is clear, targeted and effective	– engagement with stakeholders when developing or reviewing regulation	2–5	3.6
	– adequacy of the guidance and information provided to regulated entities on regulation	3–5	3.9
	– responses to requests for information or clarification on RBA regulation	3–5	4.1
Compliance and monitoring approaches are streamlined and coordinated	– reasonableness of data requested by the RBA – in scope, frequency and timing	3–5	3.8
	– the reasonableness of other, ad hoc information requests from the RBA – in scope, frequency and timing	3–5	4.3
Regulators are open and transparent in their dealings with regulated entities	– adequacy of the information that the RBA makes available publicly on its approach to regulation and regulatory framework	3–5	3.7
	– responsiveness to requests/queries regarding the operation of the regulatory framework	4–5	4.4
Regulators actively contribute to the continuous improvement of regulatory frameworks	– efforts to establish and maintain cooperative and collaborative relationships with stakeholders	3–5	4.2

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



## Appendix 4: Identified Actions in the 2016/17 Assessment

### Retail Payment Systems

Identified action	Progress
Look for further opportunities to actively engage with a diverse range of participants, including from the fintech sector, to better understand emerging trends and technology	Ongoing. The Bank continues to monitor emerging trends and technology through internal research and consultation with a relevant participants, including from the fintech sector.
Continue efforts to use 'plain-English' in communications, including in the guidance provided to stakeholders	Ongoing. The Bank has made a commitment to using plain English in its communications; where this is not possible, the Bank has provided guidance in plain English (for example, the standards on merchant pricing and interchange fees are accompanied by a plain English Q&A).
Continue to seek feedback when providing guidance to ensure it is clear and well understood	Ongoing. The Bank provides ongoing support to participants to clarify regulatory requirements when new regulations come into effect and will continue to do so in the future.
Continue to engage with regulated entities to ensure that the timeframes for responding to information requests are reasonable	Ongoing. The Bank considers both the complexity and nature of a request when determining a timeframe for response; where an entity requires additional time to respond, the Bank makes every effort to be accommodative.

### Clearing and Settlement Facilities

Identified action	Progress
Continue to keep the annual assessment process under review with a view to minimising the burden on regulated entities without compromising the benefits of disclosure.	Ongoing. The Bank's review of its approach to published assessments to provide further clarity regarding the Bank's priorities and expectations has been effective in significantly reducing the length of assessment reports, decreasing the regulatory burden on CS facilities when reviewing these reports.
Continue to improve coordination with overseas regulators and give further consideration to the scope for greater reliance on foreign regulatory authorities	Ongoing. The Bank has sought to clarify where it places reliance on foreign regulatory authorities, which has been reflected in its published assessments of overseas CS facilities.
Continue to explore ways to ensure consistency in the regulatory approach	Ongoing. The Bank strives to provide continuity of staff in FMI oversight, including structuring roles in order to have greater overlapping responsibility between management to minimise key person risk. The Bank has implemented a structured internal training program to facilitate new staff's understanding of CS facilities.