

16 January 2014

Head of Payments Policy Department
Reserve Bank of Australia
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Dear Dr Richards,

APCA Submission to “Proposed Variation to MasterCard and Visa Access Regimes: Consultation Document”

The Australian Payments Clearing Association (APCA) is pleased to make this submission to the “Review of Card System Access Regimes: A Consultation Document” (Consultation Document), issued on 6 December 2013.

APCA is the Australian payments industry self-regulator and primary industry vehicle for payments industry collaboration in Australia. It exists to advance the common interest of members and the interests of the Australian public in improving the Australian payments system. APCA seeks to do this by enabling competition and innovation, promoting efficiency and controlling risk in the Australian payments system. Please note that the views contained in this submission do not necessarily reflect the views held by individual APCA member organisations.

APCA made a submission to the previous consultation on 10 July 2013. In its Consultation Document of 6 December, the RBA asks for feedback on the three options for reform presented in the document and the draft Access Regimes proposed under Option 2. APCA has responded to the options below.

Options for Reform

APCA believes most of the arguments made in our 10 July 2013 submission still hold in relation to the three options for reform subsequently presented by the RBA in the Consultation Document. The additional information raised in the course of the consultation does not alter our view that the regulatory regime for existing and new issuers and acquirers must remain clear, objective and non-discriminatory and that prudential regulation through the Specialist Credit Card Institution (SCCI) regime provides for this.

Option 1: Maintain the Status Quo

In our submission of 10 July 2013, APCA indicated a preference for a “status quo” approach, namely the on-going prudential oversight of issuing and acquiring activities.

APRA’s prudential oversight is designed to ensure that financial promises made by institutions are met. As pointed out by the RBA in the Consultation Document, risk in the credit card system stems primarily from the potential that a party in the chain may not meet its obligations. Prudential oversight of card issuing and acquiring helps to ensure that financial obligations to acquirers, and merchants, are met.

The RBA has stated that the recent consultation was prompted by concerns that the current access regimes may no longer be fulfilling their original objective and may now be preventing prospective scheme participants from entry.

As the SCCI regime also provides APRA with powers to revoke or vary conditions, including capital requirements, it would be worthwhile to explore how the current SCCI requirements might be reformed, amended, or where relief might be provided for potential new entrants based on well-considered criteria and within an open and transparent process. In our submission of 10 July 2013, APCA suggested that RBA and APRA work together to review the current SCCI regime and identify opportunities where the requirements could be altered to help accommodate new entrants within the regime. The Consultation Document acknowledges that other submissions have similarly argued for a “lighter-touch” SCCI framework. It is disappointing that this course of action has not been suggested along with the other reform options.

Option 2: Removing the APRA SCCI Regime, but Retaining Some Controls via the Access Regimes

The important question for the RBA’s consultation is whether issuing and acquiring of card transactions should remain subject to prudential oversight.

The current SCCI regime reflects two important features of issuing and acquiring activities in Australia: that ADIs make up the majority of issuers and acquirers of card transactions; and that regulation for ADI integrity is the responsibility of APRA. While consideration might now be required in relation to how this regime continues to be implemented by APRA, it has successfully provided reasonable proxies for financial standing, efficiency and dependability standards that would be expected from issuers and acquirers. Importantly, it has also served the public interest well. The regime should only be removed if government decides that there is a good public policy reason to do so.

The fact that potential new entrants or existing scheme participants wish to minimise or eliminate their own interaction with APRA or avoid the perceived onerous nature of the current requirements would not seem reason enough to remove the current SCCI regime. Importantly, the regime accords with current legislation and regulation, has served to provide access and promote competition, has not adversely affected efficiency or security and ensures regulatory consistency. For example, competition amongst issuers and acquirers in Australia is robust (as can be demonstrated by declining merchant fees). APCA believes that allowing for wider competition is not in itself a reason for removing prudential regulation in the form of the SCCI regime.

As the Reserve Bank and the schemes implement any access regime reforms, it is critical this implementation not create an uneven playing field that advantages new issuers and acquirers at the expense of existing issuers and acquirers, nor should the implementation introduce unnecessary risks for existing issuers and acquirers. If the RBA and APRA are of the view that the risks involved with non-traditional issuing and acquiring businesses are not of the order that requires prudential oversight, there should be consideration about how this is applied to ADIs who remain prudentially regulated and undertake these businesses, so they are not disadvantaged.

It could also be argued that removing the SCCI regime is unfair to those organisations that have undertaken the cost and effort to obtain and hold their SCCI status. Although it is pleasing that they are recognised by the draft variation to the Access Regimes, this is not a guarantee that they would still be able to participate in the schemes. Further, it is not clear

in Option 2 that issuers and acquirers will have adequate opportunity to discuss and provide feedback on matters of concern to them. The current regime provides a consultation process (such as the current consultation) for proposed reforms, whereas under Option 2 the schemes would develop their own risk-based membership criteria and report to the RBA on how it is implemented. It is also not clear that Option 2 would provide avenues or remedies for prospective new entrants to address any issues.

Option 3: Removal of All Access Regulation

APCA maintains a strong preference for market-based outcomes. However, if regulation is required to ensure competition, efficiency and security, then industry self-regulation is preferred. We welcome the RBA reviewing the need for existing regulatory instruments, particularly those that potentially restrict or inhibit commercial activity. Similarly, we would encourage the RBA to explore other areas where existing restrictions on commercial activity, such as interchange fee regulation, may no longer be required. On this basis, we welcome an exploration of how to enhance access and competition in payments.

APCA has highlighted in previous submissions to the RBA the need for a longer term approach to regulation, for example in our April 2012 submission on EFTPOS designation. APCA has suggested that a better approach to achieving efficiency and competition between payments systems may be to regulate the marketplace rather than each system individually and that issuers and acquirers, in particular, should have an adequate voice on matters of concern to them.

Further, there remains the risk of piecemeal reform if the access regimes are adjusted without progressing legislative reform within a wider policy and regulatory framework. As noted in our 10 July submission, we believe there will be opportunities within the future Australian Payments Council to address issues of scheme regulation in a strategic and inclusive manner.

If you have any questions or require any further information on the matters raised in this submission, please do not hesitate to contact Dr Brad Pragnell, Head of Industry Policy, APCA at bpragnell@apca.com.au.

Yours faithfully



Chris Hamilton
CHIEF EXECUTIVE OFFICER