

5 July 2013

Dr Tony Richards
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Sydney NSW 2001



By Email to: pysubmissions@rba.gov.au

Dear Dr Richards,

Review of Card System Access Regimes: A Consultation Document

I refer to the above mentioned Consultation Document released on 28 May 2013. The Commonwealth Bank (the Bank) appreciates the opportunity to comment briefly on the matters raised therein.

The Consultation Document seeks views on nine specific questions – these are addressed below. Following that we take the opportunity to comment on a related matter.

Issues for Consultation

1. What is the nature of the risks faced by the card schemes and their members if a participant were to fail?

Risks in credit card issuing and acquiring were well articulated in the Reserve Bank's "Reform of Credit Card Schemes in Australia '1' – A Consultation Document, December 2001"¹. Essentially, both issuers and acquirers face liquidity and credit risks, and associated operational risks, reflective of their roles and activities.

Consequential risks impacting on card schemes are best described by the schemes themselves, although a participant failure would raise similar liquidity and credit risks for other participants – along with risks of reputation and confidence in the schemes and their brands. Confidence in the schemes and their members are essential – as for any efficiently functioning network.

2. What is the most appropriate way to address those risks? What rules and procedures do the schemes currently have in place?

Details of rules and procedures currently in place by the schemes are best addressed by the schemes themselves.

The Bank believes that risks associated, and confidence in, the scheme networks is best addressed by maintaining appropriate prudential requirements attaching to membership. Expanding on this view, we believe that membership should continue to be subject to meeting requirements associated with being an Authorised Deposit Taking Institution (ADI) (including Specialist Credit Card Institutions) and subject to ongoing prudential supervision by the Australian Prudential Regulation Authority (APRA). Supervision by APRA is, in our

¹ <http://www.rba.gov.au/payments-system/reforms/cc-schemes/ia-consult-doc/pdf/restrictions-entry.pdf> p89

view, efficient and non-discriminatory – limiting the need for overlapping screening to be applied by the schemes themselves.

More liberalised access would, in our view, raise risks to the safety of the payment system and cannot be justified in the absence of widespread market failure.

3. *To what extent should the means of addressing risk be left in the hands of the scheme: that is, is there any role for regulatory oversight of these practices?*

As proposed above, we believe that there is a key role for regulatory oversight of access and the associated risks attaching to scheme participation. We believe that such oversight is efficient and non-discriminatory.

4. *Is it appropriate to retain the access regimes in their current form?*

In line with the points discussed above, we support retention of the access regimes.²

5. *How should the access regimes be varied if change is appropriate?*

Further to the above comments, and in the absence of demonstrable market failure (and given benefits attaching to regulatory consistency), we do not wish to propose variations to the current access regimes.

6. *What criteria should be used to determine eligibility in the absence of the regulatory requirements on access?*

The Bank does not support the “absence of regulatory requirements” model. In the unfortunate scenario of regulatory requirements being dispensed with, we believe that criteria that might be incorporated into scheme rules should be no easier than that which is currently applied and enforced by APRA.

7. *What would be the potential effect on incumbent participants of extending eligibility for participation?*

As argued above, more liberalised access would, in our view, raise risks to the safety of the payment system and cannot be justified in the absence of widespread market failure. Maintenance of confidence in the security and integrity of the payment system is paramount. Any increase in risk to the system cannot be countenanced.

8. *Do scheme participants need to be authorised and subject to prudential oversight by APRA and what is the purpose of APRA oversight should it continue?*

As noted above, the Bank believes that scheme participants should continue to be authorised and subject to prudential oversight by APRA. Such oversight contributes favourably to maintaining confidence in the integrity of the networks in question.

9. *Are there alternative approaches that would allow a wider range of prospective entrants into the card schemes?*

Scheme participation is best attained via satisfying requirements attaching to prudential supervision and ADI status. Should a prospective entrant not wish to approach the schemes via such a route, the opportunity for indirect participation facilitated by an existing (prudentially supervised ADI) scheme member, based on commercial arrangements reached with that member, remain.

In summary, of the three policy options articulated in the Consultation Document, the Bank believes that Option 3 – “Maintain the Status Quo” – is the superior alternative. In our view it strikes the appropriate balance between ease of access and ongoing integrity of key infrastructure – to the public benefit.

² This is consistent with the position we have previously argued in relation to EFTPOS where we have proposed that EFTPOS Payments Australia Ltd should absorb consistent aspects of the current EFTPOS Access Regime, into relevant scheme rules. As noted in the current Consultation Document, eligibility requirements for membership of EFTPOS, differs from that applying to credit card schemes.

Other Matters

The Consultation Document notes that the “*merits of the Reserve Bank participating in schemes in its role as banker to a range of government agencies are not considered in this consultation*”. The Bank believes that the issues underlying such participation – namely the Reserve Bank’s provision of commercial banking services - are worthy of public debate. Put simply, the Bank believes that the provision of transactional banking facilities by a nation’s central bank is inappropriate. We have formed this view in light of the following points:

- Fundamentally, we do not believe that it is appropriate for a supervisor of financial and payments systems, and associated banking activities, to also be a competitor to more commercial institutions participating in this market. Conflicts inherent herein are substantial and best avoided, in our view.
- While principles of competitive neutrality, internal segregation of duties (“Chinese Walls”), and policies for avoiding conflicts of interest may be in place and remain important, the application thereof is not immediately apparent to market participants, notwithstanding the annual publication of Pro Forma Business Accounts for contestable businesses.
- A tenet of economic reform has been to promote market mechanisms and competition to drive efficiency and competitiveness, but this is undermined if a potential competitor is starting from a position unfairly protected by legislation.

We also note that our respective web sites³ both record the historical background to the separation of commercial banking activities from central bank functions (addressed by the enactment of the Reserve Bank Act (1959) and the Commonwealth Banks Act (1959)). This distinction remains valid in our view.

The bank understands that the Reserve Bank is currently required by the Reserve Bank Act (1959) to provide banking services to the Commonwealth in so far as the Commonwealth requires it to do so. This is a matter that the Bank will raise with the Treasurer at an appropriate time.

We believe that this issue is germane to the matters addressed in the current Consultation Document.

Finally, we note that should the Reserve Bank decide to vary the current access regimes, then a further consultation will be required. In that event, we look forward to contributing further to this debate.

Thank you again for the opportunity to comment on the issues raised in the Consultation Document. We of course remain available to discuss these comments at any time and to that end ask that you contact the undersigned.

The Bank appreciates that this submission will be posted on the Reserve Bank’s website.

Yours sincerely

[Signed]

Stuart Woodward
General Manager
Representation

³ <http://www.commbank.com.au/about-us/our-company/history/development.html> and <http://www.rba.gov.au/about-rba/history/index.html>