

Via Email: pysubmissions@rba.gov.au

8 July 2013

Tony Richards
Head of Payments Policy Department
Reserve Bank of Australia
GPO Box 3947
Sydney NSW 2001

Re: Review of Card System Access Regimes: A Consultation Document

Dear Tony

MasterCard Worldwide ("MasterCard")¹ submits this comment letter in response to the consultation document entitled *Review of Card System Access Regimes: A Consultation Document* ("Consultation Document") published by the Reserve Bank of Australia ("Reserve Bank"). We appreciate the Reserve Bank's willingness to discuss the Consultation Document with us, as well as the opportunity to offer our written comments on this important matter.

Background

The Consultation Document describes the history of the Reserve Bank's introduction of access regimes for the MasterCard and Visa credit card systems in 2004 and for the Debit system in 2005 (the "Systems"). The access regimes were intended to improve competition and efficiency in the provision of payment services by expanding access to the card schemes in Australia, and included the creation of a new class of authorised deposit-taking institutions ("ADIs"), called specialist credit card institutions ("SCCIs") – non deposit-taking entities allowed to undertake issuing or acquiring activities. Like other ADIs, SCCIs are prudentially supervised by the Australian Prudential Regulation Authority ("APRA").

The access regimes require that any ADI be eligible to apply to participate in the Systems; they also prohibit the Systems from discriminating between types of ADIs when assessing applications, and from preventing a participant to from being an issuer only, an acquirer only, or both.

¹ MasterCard is a global payments and technology company that connects billions of consumers, thousands of financial institutions, millions of merchants, governments and businesses in more than 210 countries and territories, enabling them to use electronic forms of payment instead of cash and checks. We use our technology and expertise to make payments more convenient, secure and efficient to enable consumers to meet their needs and to provide value to all stakeholders in the payments system.

As the Consultation Document describes, since the access regimes were implemented, the Reserve Bank has identified potential issues, including:

- that APRA prudential supervision of ADIs might discourage prospective participants from joining the Systems;
- that the Reserve Bank itself is not an ADI; and
- that the requirement that all participants in the Systems be ADIs has increased costs to APRA, which must process applicants and supervise ADIs once approved.

Accordingly, the Consultation Paper seeks comment as to whether and how the access regimes should be modified or eliminated.

Comments

The Consultation Paper offers three possible options the Reserve Bank may take with respect to the access regimes: (1) vary the access regimes to widen eligibility; (2) revoke the access regimes; or (3) maintain the status quo. We strongly urge the Reserve Bank to take the second option, and revoke the access regimes in their entirety.

I. Regulation of Access Regimes is Inappropriate

The Reserve Bank's intervention in the payment systems market has created distortions that have resulted in a clear competitive advantage for one scheme over the others. American Express – the most expensive form of payment for a merchant to accept as demonstrated by the Reserve Bank's own data – has seen its share of payments increase over the past decade, driven by the fact that they fall outside RBA regulation; surcharging has benefited merchants with market power and the cap on MasterCard and Visa interchange fees has failed to provide any benefit to consumers.

With respect to the Reserve Bank's access regime regulations, the Consultation Document itself provides compelling evidence of the challenges of regulating a highly competitive and complex card payments system. As the Consultation Document describes, the access regimes have prevented some entities from joining the Systems entirely, while unnecessarily increasing the costs of joining the Systems for other entities. While a revised regulation may solve certain problems that are obvious in the short term, it is virtually certain to spawn its own unintended consequences over the medium to longer term.

II. Safety Concerns are Unfounded

The Reserve Bank suggests that one risk of revoking the access regimes might be that MasterCard and Visa "may weaken eligibility criteria too far and potentially compromise the financial safety of the systems." These concerns are unfounded – Systemic stability and reliability are as important for MasterCard as the RBA and MasterCard has always been proactive about ensuring the safety of its payment system, and will continue to be in the future. When determining whether an entity should be permitted to join the MasterCard system, we thoroughly investigate its financial condition, ability to satisfy its settlement obligations, and other risks that it may pose to the MasterCard system.

We address these issues initially through our decision on the prospective system participant's application. Moreover, as appropriate, we require participants in the MasterCard system to post collateral, obtain guarantees, provide letters of credit, limit the size and type of their MasterCard activities, or otherwise take actions to satisfy our risk-management requirements. We also monitor the financial health of our system participants on an ongoing basis to address changes in their financial strength and ability to satisfy their settlement – and other obligations to MasterCard. We are confident that our current practices address the Reserve Bank's safety and soundness concerns.

In addition, MasterCard is extensively supervised by the United States Federal Financial Institutions Examination Council ("FFIEC"), a supervisory body created by U.S. federal law through which U.S. federal banking regulators work together to set standards and conduct joint examinations of certain companies. Because we provide services to banks that are regulated by the agencies making up the FFIEC, we are subject to a biennial, multi-week, on-site examination by the FFIEC – which covers topics such as risk management, information technology, data security, internal audit, and many other areas – and other periodic reviews of a less formal nature by the FFIEC.

III. If Access Regimes are Regulated, Regulation Should be Open and Public

The Consultation Paper suggests that the Reserve Bank might revoke the access regimes as a formal matter, but only on the condition that MasterCard and Visa enter into an undertaking with the Reserve Bank that would govern—at least in part—the access rules of the Systems.

We urge the Reserve Bank not to take this course of action. While, for the reasons stated above, we strongly believe that regulation of network rules relating to access is inappropriate, if regulation is to occur it should be in a public, transparent process. Regulation through undertaking would continue to create a market distortion and unintended consequences arising from interference with the market, without any of the benefit that could arise from making such interventions public and opening them to full debate.

Thank you again for the opportunity to provide comment and we would welcome the opportunity to meet with the RBA to further discuss the access regimes. Please do not hesitate to contact me or David Masters if you have any questions.

Sincerely,



Eddie Grobler
Division President, Australasia