

Proposed Variation to the MasterCard and Visa Access Regimes: Consultation Document

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1. Introduction

The Bank initiated a public consultation on the Access Regimes applying to the MasterCard credit and the Visa credit and Visa Debit systems in May. The Regimes, which came into place in 2004 and 2005, were designed to expand access to the card schemes in Australia and stemmed from concerns that the schemes' restrictions on entry had not struck the right balance between competition in the payments system and the financial safety of the schemes.

The recent consultation was prompted by concerns that the regimes in their current form may no longer be fulfilling their original objective, and may now be preventing some prospective scheme participants from entry. As a result of recent developments in the card issuing and acquiring markets and views expressed during the consultation process, the Bank is considering the case for modifying the Access Regimes to potentially expand access to a wider range of entities.¹

This document outlines the views presented during the recent consultation process and seeks further comments on options for reform of access, including the Bank's preferred approach to varying the current Access Regimes. Section 2 of the document provides background on current access arrangements in Australia. Section 3 outlines the problem that has given rise to the current review and Section 4 sets out the objective of reform. Section 5 discusses the various views from the initial consultation on this issue, while Section 6 sets out the options for reform. Section 7 provides the Bank's preliminary evaluation of the options. Section 8 discusses the elements of a proposed variation to the Regimes and Section 9 provides details of the next steps in the process. Attachment 1 contains a list of questions posed to interested parties in the Bank's preliminary consultation, while the proposed variations to the Regimes are set out in Attachment 2.

1 Card issuing is providing payment cards to individuals or businesses, maintaining accounts associated with those cards and clearing and settling payment obligations arising from the use of those cards with acquirers. Card acquiring is providing a merchant with facilities to accept card payments, accounting to the merchant for the proceeds of card transactions and clearing and settling the resulting obligations with card issuers.

2. Background

The Bank established Access Regimes for the Bankcard, MasterCard and Visa systems in 2004 and 2005, in response to concerns that the schemes had not struck a balance between competition and the control of risks that was in the public interest. During consultation at that time, the card schemes and authorised deposit-taking institutions (ADIs) argued that prudential supervision of scheme members was necessary to ensure scheme safety.

In establishing the Access Regimes, the Bank worked with the Australian Prudential Regulation Authority (APRA) to create a new class of ADI, specialist credit card institutions (SCCIs), accompanied by an amendment to the Banking Regulations 1966 that declared credit card issuing and acquiring to be banking business. This allowed non-deposit-taking entities to apply to APRA for authorisation to undertake issuing or acquiring activities and become eligible to apply to join the MasterCard and Visa systems. The Access Regimes also prevented schemes from discriminating between types of ADIs (including SCCIs) and between issuers and acquirers. Since the introduction of these arrangements, two entities have gained SCCI status in Australia.

3. Reasons for a Review of Regulation

There are two interrelated problems that the current review seeks to address. First, while the 2004/05 reforms to access arrangements widened potential access to the MasterCard and Visa systems, there is evidence that access arrangements may still be more restrictive than necessary, potentially reducing competition, efficiency and innovation. This arises because the Access Regimes prevent parties other than ADIs/SCCIs from joining the schemes, even if the schemes would otherwise have been willing to admit them. Second, APRA's prudential framework for ADIs/SCCIs requires an authorisation process and ongoing compliance with a range of prudential requirements, together with application and ongoing fees. Taken as a whole, the prudential framework establishes a relatively high hurdle to entry and results in costs for potential entrants, some existing members and for APRA itself.

Access Arrangements May Be More Restrictive than Necessary

As noted, only two entities have gained SCCI status in Australia since the current access framework was implemented. This modest take-up of the SCCI arrangements of itself suggests that membership of the schemes might not have been opened up as much by the 2004/05 reforms as had been hoped. While this might simply indicate that relatively few non-traditional parties have seen a business case for joining the schemes, the Bank is aware of some parties that have considered pursuing the SCCI path, but decided against it.

More recently, the Bank has become aware of at least five entities focused on new or niche business models that have indicated an interest in issuing or acquiring credit card transactions in Australia. Most have indicated that they consider the requirements to become an SCCI to be significantly more onerous than warranted for the business they plan to pursue and out of line with arrangements in some overseas jurisdictions.^{2 3} Some have nonetheless indicated that they would pursue SCCI status in order to gain entry. The card schemes themselves have indicated that they would be prepared to admit a wider range of entities than currently hold ADI/SCCI status in Australia and a wider range than they would have been prepared to admit prior to the reforms. Both schemes have changed their corporate structure since the initial access reforms,

2 The business undertaken might for instance include issuing cards only to corporate customers or acquiring only for post-paid services where there is no chargeback risk from the default of a merchant that has yet to deliver its services.

3 For instance, the 'Payment Institutions' framework in Europe was established to regulate entities which were not already covered by banking or e-money regulations, in part because prospective participants had found the then-existing regulation too restrictive for the services they wish to provide. Accordingly, the current framework establishes a prudential regulatory regime that takes into account the different operational and financial risks posed by seven specified payment services. Once an entity is authorised to provide one or more of these services by the national regulator responsible for its prudential supervision, it can offer those services throughout the European Union.

moving away from member associations of banks to publicly listed companies. This could be expected to alter the schemes' incentives in favour of allowing wider participation.

The current requirements for participation may be preventing users of the payments system from gaining the benefits that new entrants might bring. For instance, the virtual card products proposed by several prospective entrants have the potential to significantly improve the efficiency of payments and reconciliation for businesses operating in the travel industry. Other potential entrants offer improvements in efficiency for other types of payments system users. More generally, any additional entry is likely to exert pressure on the prices and service levels of incumbent payments system participants.

A second element that suggests that the existing access arrangements might be too restrictive is that the Access Regimes in their present form prevent the Reserve Bank from participating in the international card schemes. This arises because the Access Regimes restrict eligibility for participation in the schemes to ADIs. The Reserve Bank is not an ADI, but it is nonetheless able to undertake banking business under the *Reserve Bank Act 1959*. This appears to be an artificial constraint which prevents the Bank from delivering services to the Commonwealth in the most efficient possible way. It also results in an inconsistent treatment of card schemes in Australia, with the eftpos payment system able to accept the Reserve Bank as a member, but not the MasterCard and Visa systems. This may be detrimental to competition between the schemes.

To summarise, the aim of the access arrangements is to encourage competition and efficiency in the payments system by striking an appropriate balance between new entry and controlling risk. There is some evidence that the correct balance is not currently being achieved.

Public Supervision of Participants as ADIs Might Not Be Appropriate

In large part the level of the hurdles for participation in the card schemes in Australia reflects the fact that SCCIs fall within APRA's prudential supervision regime for ADIs. While SCCIs do not take deposits like other ADIs (at least not to any material extent), they must by and large meet the same standards as other ADIs. This reflects an important principle that all ADIs should be supervised to the same standard; applying a lower level of supervision for some ADIs would create confusion about what ADI status and prudential supervision means and could cause reputational damage if an entity supervised to a lower standard were to fail, potentially reducing confidence in more systemically important institutions.

APRA supervision is directed to ensuring that ADIs manage risk prudently so as to minimise the likelihood of financial losses to depositors. However, the nature of risks in a credit card system is quite different to those being addressed by APRA for other ADIs (see Box A for a fuller description). Holders of credit cards do not in the normal course of events have an exposure to credit card issuers as they are receiving credit rather than providing deposits. Therefore APRA's depositor protection mandate does not appear relevant. Merchants may have a financial exposure to card acquirers, as merchants require settlement of the funds owed to them for credit card purchases. Risk to merchants is reduced to an extent by the fact that acquirers are largely passing through funds from issuers and the schemes have mechanisms in place to provide confidence that settlement between issuers and acquirers will occur.

In effect, the largest exposures are managed within the card schemes, while participants must cover losses arising from the credit provided to their cardholders (for issuers) and non-performance by a merchant (for acquirers), and some merchants may have exposures with respect to funds passed through by their own acquirer.

This suggests that, although not intended, APRA supervision of SCCIs largely operates to protect the MasterCard and Visa systems rather than the users of those systems. This might be justified if these exposures were of a scale that presented some risk to financial stability, but the average daily value of transactions in all credit card systems in Australia averaged only \$720 million per day in 2012/13, compared with RTGS payments of \$158 billion and Direct Entry payments of \$40 billion.⁴

APRA believes that supervising credit card system participants is no longer an appropriate use of its resources and is not consistent with its core mandate. In APRA's view, responsibility for determining access to the card schemes rests with the schemes themselves, not a prudential regulator charged with the protection of depositors.

Box A: Risks in Credit Card Systems

Participants in the MasterCard and Visa systems can be issuers or acquirers (or in most cases both). When a cardholder purchases goods from a merchant, the issuer undertakes to make payment for those goods (to the acquirer) and recoups the funds from the cardholder according to the terms of their agreement. The acquirer receives the funds from the issuer – one or two days after the transaction for a domestic payment in Australia – and settles with the merchant. The acquirer is entitled to delay settlement with the merchant until it has received the funds from the issuer, or for risk management purposes, but in some cases it will settle earlier.

Risk in the system stems primarily from the potential that a party in the chain may not meet its obligations. The highest probability risk is that of a cardholder failing to meet its obligations to the issuer. The issuer bears this risk and therefore must screen cardholders and monitor and manage the risks they present appropriately. Since the issuer exposure to any individual cardholder is small, the overall risk to an issuer with robust credit risk management is low.

A much larger concern arises if the issuer itself is unable to settle with the acquirers. If not managed, settlement risk of this type has the potential to adversely affect both participants and users of a payment system. Both MasterCard and Visa have various risk control mechanisms in place, aimed at providing confidence that settlement to surviving members will be completed. Issuer risks are monitored and managed by the schemes, including by restricting the entities that can participate or the activities they can undertake, and where appropriate by requiring collateral to be posted.

Given that acquirers are receiving funds from issuers and paying them to merchants, they are generally not exposed to either cardholders or merchants for most transactions. The exception is where a chargeback is initiated via the issuer – for example, either because the cardholder did not participate in the transaction, or because the goods or services were not satisfactorily provided. Where a chargeback is successful, the disputed transaction may be reversed, with the acquirer having to recover the funds from the merchant. The incidence of chargebacks varies from sector to sector, but is most acute if a merchant becomes insolvent without having delivered goods or services. The most notable example is the Ansett collapse, where the acquirer was required to meet very large chargeback obligations for tickets purchased in advance by credit

4 Credit card transaction figures include American Express and Diners Club. All debit card transactions (including eftpos) averaged around \$540 million per day

card. Since that time, acquirers have become more conscious of managing these risks. The scheme risk controls that protect acquirers from the failure of an issuer equally apply to protect issuers from the failure of an acquirer with unsettled chargeback obligations.

A number of conclusions can be drawn about risk from this framework. First, financial risk to the cardholder is minimal. Should a participant in the system fail, in most cases the cardholder will not be affected because they will already have possession of the goods in question or will have used the service. Where the goods or services have not been delivered, the cardholder is protected by chargeback rights and the mechanisms put in place by the payment systems to address unpaid positions among members (and otherwise by the cardholder's rights as a creditor of the merchant). If a cardholder's own issuer were to fail, they would face the inconvenience of being unable to use their card or access their accounts.

Merchants that accept payment cards will always be subject to some chargeback risk arising from disputes and, for online merchants in particular, fraud. However, the schemes' risk controls mean that merchants generally should not be exposed to the failure of an issuer. A merchant may however have an exposure to its own acquirer where the acquirer is holding settlement funds in transit from issuers to merchants.

In summary, exposures between card scheme members are protected by each scheme's risk controls, including the use of collateral. Issuers face credit exposures to cardholders. Acquirers face chargeback exposures to merchants. In some cases, merchants may face exposures to their own acquirer where the acquirer holds settlement funds in transit. Cardholders generally do not face risks in these systems and in fact benefit from chargeback protections.

4. The Objective of Reform

In line with the requirements of the *Payment Systems (Regulation) Act 1998*, the objective of reforming current access arrangements is to foster greater competition and efficiency in the payments system by achieving a balance between new entry to the MasterCard and Visa systems and risk in those systems that is in the public interest.

This objective might be achieved by:

- providing greater scope for the entry of new participants in the MasterCard and Visa systems, including by entities that are not currently eligible because they are not ADIs
- providing a suitable mechanism for the risk to the MasterCard and Visa systems from new entrants to be assessed and managed
- ensuring that regulatory imposts on participants are not higher than warranted.

A subsidiary objective is to ensure that regulatory resources (including those of APRA) are directed to the greatest public benefit and not to functions more appropriately performed by the private sector.

5. Consultation

The Consultation Process

The Bank released *Review of Card System Access Regimes: A Consultation Document*, in May 2013. The Bank sought the views of interested parties on three policy options: varying the Access Regimes to expand eligibility to a wider range of entities, revoking the Access Regimes and maintaining the status quo. The Bank also sought views on a number of questions related to the risks faced by card schemes and their members, how they should be addressed and the shape and potential effect of possible revised access arrangements (see Attachment 1 for the questions posed).

In total, 16 submissions were received, including from financial institutions, industry groups, potential members and the card schemes. Non-confidential submissions are published on the Reserve Bank's website. Most parties took up the invitation to discuss their submissions with the Bank.

The main points raised in these submissions are discussed below.

Views Expressed During Consultation

Views on current access arrangements

The majority of submissions supported either varying or revoking access regulation, with a range of views regarding the preferred approach. These differed in terms of the role of prudential supervision of card scheme participants and the capacity of the schemes to assess applicants' eligibility for membership in an objective manner. By contrast, incumbent scheme participants and industry associations (APCA and the ABA) expressed a preference for maintaining the status quo, with entry restricted to ADIs as currently.

Those supporting the status quo argued that maintaining APRA supervision was important – to give each participant some comfort on the financial condition of other participants and to maintain the confidence in and stability of the system. They argued that APRA supervision provides clarity, transparency, objectivity and regulatory neutrality. One bank, for instance, stated that prudential supervision represents an 'efficient and non-discriminatory' way to manage risks and reduces the need for 'overlapping screening' by the schemes. Other parties argued that the regulatory approach should not be changed just because prospective participants wish to avoid what they perceive as onerous requirements by APRA.

Most of the remaining submissions, however, agreed that the Access Regimes in their current form are not fulfilling their objectives and that they may be hindering competition by creating unnecessarily high barriers to entry. A number of smaller entities wishing to gain access to the MasterCard and Visa systems highlighted that the current regime is more onerous than necessary for companies with business models that pose little risk. Several also said that they had been

discouraged from applying for an SCCI authority by the prudential (and in particular capital) requirements that apply to ADIs.

Options for reform

Among those favouring a change in the access framework, some favoured the removal of regulation – with access left entirely in the hands of the schemes – while most preferred continued, but somewhat more flexible, regulation.

A small number of submissions supported a complete removal of the regimes. They argued that there have been sufficient changes in the market to allow this option, with the schemes now more willing to accept a wider range of members than at the time when the existing arrangements were put in place. A retailer with a significant payments presence contrasted the restrictive entry requirements for the MasterCard and Visa schemes with the flexibility shown by both APCA and ePAL, in which the major retailers now participate. One potential entrant argued that the schemes enforce rigorous requirements for scheme membership which appropriately balance a desire for the broadest possible membership with the need to exclude those that are not ‘equipped, experienced or adequately funded or collateralised to participate’. However, even among those arguing for a complete removal of access regulation, some argued for the continued involvement of the Reserve Bank, for instance through scrutiny of scheme rules to ensure there are no undue barriers to entry. Some saw the potential for voluntary undertakings by the schemes in relation to some elements of access, although MasterCard opposed this.

A number of submissions (including both incumbent and prospective participants) questioned the schemes’ ability to manage entry in a non-discriminatory way that appropriately managed risks. On one hand, some argued that entry would not be sufficiently restrictive because the schemes’ commercial interests in increasing participation would dominate their interest in adequately managing risks. Others however suggested that entry might remain too restrictive if left in the hands of the schemes, for instance pointing to experiences in other jurisdictions. These parties argued that there remained a role for some form of regulatory oversight or supervision that was fair and non-discriminatory, yet more flexible than current arrangements.

A relatively common view, particularly among prospective participants, was that prudential supervision should continue to play a role, but should incorporate some additional flexibility. For instance, some commented that their experience with APRA had been open and fair, but constrained by a ‘strict and prescriptive’ SCCI framework. A number of different elements of the current framework were noted as causing concern for potential entrants, including capital requirements, shareholder restrictions and reporting requirements. Accordingly, some parties argued that access could be expanded by targeted changes to particularly onerous aspects of that framework.

A common concern was what was viewed as a ‘one size fits all’ approach to supervision, which does not recognise differences in the risks presented by different business models. At a broad level, some parties argued that authorisation requirements and prudential standards applicable to SCCIs are more onerous than warranted by the limited business they undertake. In addition, a number of players pointed to significant differences between the risk profiles of different types of SCCI business, which argued for more nuanced supervision.

In this context, many parties referred to the differences in issuing and acquiring risk, arguing that they warranted a different supervisory approach. An option cited by several was for the

regulatory framework to allow for a new category of ‘acquirer-only’ businesses that are supervised, but not required to be ADIs. An alternative suggestion was to retain prudential supervision for issuers (possibly at a reduced level), but for acquirers to be supervised via an industry body with an accompanying code of practice.

A focus of some submissions and discussions was the specific case of entities that are already regulated in another jurisdiction. One entity argued that it is already supervised on the basis of its global operations by an appropriate supervisor and should have significantly reduced regulation in Australia.

Views of the schemes

MasterCard argued that concerns over the financial safety of the payments system if access was not regulated were largely unfounded. The scheme claimed that stability and reliability of the system were as important for it as for the Reserve Bank, and that the scheme was proactive in ensuring the safety of the payment system. It therefore argued that the Access Regimes had created distortions, unnecessarily increased the costs to some entities wishing to join, and prevented some others from joining entirely. Accordingly, it considered that the regimes should be removed. It noted that seeking to achieve the same ends via voluntary undertakings was inappropriate, arguing that if regulation of network access were to continue, it should occur via a public, transparent process.

Visa was also in favour of removal of the Access Regimes, but believed that some form of minimum publicly-set and overseen regulatory standard should remain. The scheme therefore supported revocation of the Access Regimes but retention of the SCCI class of APRA-regulated institutions. It argued that this would ‘enhance competition while maintaining an appropriate screening and monitoring device for new entrants into card systems’. It nonetheless supported the notion that lower minimum standards could be applied to SCCIs. The scheme also indicated that it was prepared to offer an undertaking to the Reserve Bank setting out the criteria it would apply to membership assessment.

Other issues

ADI sponsorship and partnerships

A number of incumbent participants suggested that prospective entrants that found regulatory requirements too onerous had the option of undertaking a partnership or a ‘BIN sponsorship’ arrangement with an existing participant. In the latter case, the incumbent would allow the new entrant to use card or acquirer numbers allocated to the incumbent. As the member of the system, the incumbent would take responsibility for the performance of obligations related to those BINs.

In contrast, some prospective participants argued that these arrangements could constrain the sponsored party’s ability to compete and innovate.

A level playing field

Some parties noted concerns that allowing some entities to participate in the scheme with a lower standard of supervision (or no supervision) would provide those players with a competitive advantage. Others pointed out that a full service bank generally has other competitive advantages over more specialised players, such as the capacity to bundle a number of services together in its customer relationship.

Reserve Bank participation

A small number of submissions addressed the merits of the Reserve Bank becoming a participant in the MasterCard and Visa systems. The main objection was that it would be inappropriate for the Reserve Bank to compete with private sector entities for provision of government banking services. A participant in the schemes noted in consultation that the ability of the Reserve Bank to participate in one card scheme (eftpos) but not others appeared to be an anomaly.

6. Options for Reform

As discussed in section 4, the Bank's objective in revisiting the access framework is to foster greater competition and efficiency in the payments system by achieving a balance between new entry to the MasterCard and Visa systems and risk in those systems that is in the public interest. This section discusses a number of possible approaches.

As noted in the May consultation paper, other regulations may also have to be altered to complement any changes to the Access Regimes. In particular, the *Banking Act 1959* stipulates that only entities that are ADIs, the Reserve Bank or those with exemptions can carry on 'banking business' in Australia. Under the Banking Regulations 1966, banking business includes both credit card issuing and acquiring. Therefore, even if the Access Regimes were removed, any entity wishing to issue or acquire credit cards in Australia would be required to become an ADI.⁵ The Banking Regulations would need to be amended for access to the MasterCard and Visa systems to be effectively liberalised.

The Reserve Bank has authority only in relation to the Access Regimes and not the Banking Regulations, though some of the policy options discussed in this section would require amendments to the Banking Regulations to be effective. The discussion of those policy options necessarily assumes that the required amendments to the Banking Regulations are made. If the Board concludes that amendment of the Banking Regulations is required to achieve its preferred policy option, the Reserve Bank will work with APRA and the Treasury with the aim of achieving this.

Option 1: Maintain the Status Quo

This option would retain the current MasterCard and Visa Access Regimes and continue to rely on ADI/SCCI status to determine eligibility to participate in the schemes. Maintaining the status quo brings with it the benefits of clear and objective entry criteria and a regime that minimises the potential for risk to the card systems arising from system participants. However, it is clear that under this approach some potential entrants will not be eligible to participate, may be required to meet higher regulatory hurdles than appropriate or may as a result opt not to participate directly (or at all). The limited new entry that has occurred since 2004 suggests that new entry under current arrangements is likely to remain limited.

The status quo also means that an important element of risk management for the schemes will in effect be carried out by APRA, which places demands on its supervisory resources and does not fit within its core mandate. As discussed, cardholders generally do not face risks from the MasterCard and Visa systems and risks within those systems are not of a magnitude to generate systemic risk. Retaining the status quo would require a judgement that there is a case for supervision of participants to be undertaken by the public sector rather than the schemes.

5 This would not be true of the Reserve Bank, which is permitted to undertake banking business without ADI status, but has been prevented from participating in the MasterCard and Visa systems by the Access Regimes.

It is instructive that systems of much greater systemic significance determine participant eligibility themselves and do not rely on ADI status. For instance, for settlement systems and central counterparties operated by the Australian Securities Exchange (ASX), eligibility is determined by the ASX, subject to overarching principles established by the Reserve Bank and ASIC.

One possible argument in favour of retaining APRA's role is that it may allow assessment of participant risks to be centralised, rather than assessment processes being conducted in parallel by both MasterCard and Visa for some entities. This has to be weighed against the effects of the high hurdles and inflexibility of the ADI regime and the cost of prudential supervision.

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

Option 2 aims to provide the schemes with greater freedom to grant membership to new types of participants, while continuing to place some obligations on the schemes through the Access Regimes. Under this option, the Access Regimes would be varied to widen the range of entities eligible to participate in the MasterCard and Visa systems. Rather than the current approach where only ADIs are eligible, the Bank's proposed approach is for ADIs and entities that were SCCIs at a specified date to remain eligible, but for the schemes to have the discretion to also allow additional types of entities to participate. The schemes would be required to make public their risk-based criteria for determining which additional entities would be eligible. Further confidence in the objectivity of the schemes' processes could be provided by requiring them to report to the Reserve Bank on how they had used this discretion.

This option would only be effective if Banking Regulation 4 (which defines credit card issuing and acquiring to be banking business) were removed, meaning that the SCCI category of ADIs would no longer exist. So as not to lose the benefits of the earlier reforms, the amended Access Regimes would ensure that existing SCCIs remain eligible to participate in the schemes once the new arrangements come into place. However, it should be noted that this would not guarantee any individual entity ongoing membership; an SCCI's membership could be terminated if over time it fell below transparent risk-related membership criteria set by the scheme.

An implication of this approach is that former SCCIs and potentially some other members or potential members will no longer be supervised by APRA, potentially placing a greater onus on the schemes to assess and manage participant risk.

This approach has several advantages. Most importantly, it allows the schemes to admit members that would not currently be eligible, providing the potential for increased competition in issuing and acquiring and therefore greater efficiency in the payments system. By allowing new types of participants, it also has the potential to increase innovation, again with potential benefits for efficiency. Moreover it would achieve this while providing a mechanism for ensuring that current participants remain eligible.

At the same time, this approach allows the schemes themselves to balance benefits of new entry against the risks that new participants might bring to each system. This should allow a more efficient balance to be struck than by applying APRA's supervisory framework, which is geared to different types of entities and risks. A direct effect is likely to be that the costs of participation would be reduced for some entities. In addition, APRA would no longer bear the cost of

authorising and supervising SCCIs, allowing it to better direct supervisory resources to its core mandate.

A potential drawback is that by placing greater judgement in the hands of the schemes, there is a risk that access will not be expanded beyond the minimum requirement of ADIs and existing SCCIs. This means that a new entity that was otherwise similar to the existing SCCIs would have no guarantee of eligibility. On the other hand, it is also possible that the schemes might compete excessively to lower the hurdles to new entrants and not take adequate account of the risks they bring to the respective systems. The proposed requirement for the schemes to have transparent risk-based criteria for eligibility would be expected to mitigate both risks to a degree, by requiring schemes to publish their risk-based approach to membership.

Option 3: Removal of All Access Regulation

The third option is the complete removal of the Access Regimes, leaving access entirely in the hands of the schemes. Once again, this option would only be effective if Banking Regulation 4 was removed so that issuers and acquirers of credit cards were no longer required to be ADIs. In other words, access arrangements would be the same as prior to the reforms in 2004; the ability of current SCCIs or new entrants to participate would be determined solely by the schemes' willingness to admit them. As discussed earlier, there are some indications that the schemes are now more willing to admit new types of participants.

While it is possible that this option could provide the same outcomes as Option 2, it does not provide the same safeguards, namely, it does not:

- require that entities that are SCCIs under the current framework remain eligible;
- require transparent risk-based criteria for determining eligibility and assessing applications; or
- provide a mechanism for a person denied access to ask the Bank to give a direction, and provide the right to apply to the Federal Court for an order for compliance and/or compensation.

Like Option 2, this option would provide the benefits of reducing APRA's costs of authorisation and supervision and potentially the compliance costs of any non-ADIs that the schemes chose to admit.

Visa Debit Access Regime

The Access Regime for the Visa Debit system was put in place in 2005. At the time that the credit card Access Regime was being developed, the Bank expected that an SCCI joining the Visa credit card system with the intention of acquiring credit card transactions would also be able to acquire Visa Debit transactions. However, Visa indicated that since the Access Regime strictly applied only to the credit card system, its rules may have precluded an SCCI from acquiring debit card transactions, given that an SCCI cannot accept deposits. The Bank considered two options: first, to request that Visa review and modify its rules; or second, to impose an Access Regime on the Visa Debit system, mirroring that imposed on the Visa credit card system. While the first would have avoided the need for further regulation, Visa's decision-making structure meant that rule changes were likely to involve not just its Australian operations but also its Asia-Pacific and

International boards, and thus could take an extended period of time and would have an uncertain outcome. The second option was therefore more likely to promote competition in card acquiring, and would do so in a timely fashion. The same complication did not arise with respect to MasterCard, as it had different rules regarding eligibility to join the MasterCard system.

It is not clear whether these considerations will still be relevant for the approach contemplated under Option 2. A draft revised Access Regime for the Visa Debit system is included in this consultation paper (see Attachment 2), essentially mirroring the changes proposed for the credit card systems. However, if consultation indicates that this Regime is no longer required, the Bank's preliminary view is that it can be revoked.

7. Preliminary Assessment

The Reserve Bank may vary an access regime if it considers it appropriate to do so, having regard to:

- (a) whether the variation would be in the public interest; and
- (b) the interests of the current participants in the system; and
- (c) the interests of people who, in the future, may want access to the system; and
- (d) any other matters the Reserve Bank considers relevant.

In determining the public interest, the Reserve Bank must have regard to the desirability of payment systems:

- (a) being (in its opinion):
 - (i) financially safe for use by participants; and
 - (ii) efficient; and
 - (iii) competitive; and
- (b) not (in its opinion) materially causing or contributing to increased risk in the financial system.

The Bank's preliminary view after the initial round of consultation is that Option 2 in Section 6 – varying the Access Regimes – would best promote the public interest and balance the interests of current and prospective future participants in the MasterCard and Visa credit card systems and the Visa Debit system.

Its preliminary view is that the status quo is not in the public interest because the current constraints on access are likely to reduce competition and efficiency in these systems relative to the other options. The status quo would be to the detriment of parties who may wish to participate in the systems because they will be prevented from entry if they are not ADIs and may be subject to more onerous regulatory requirements than warranted for their business if they seek to become ADIs. This option is likely to reduce competition relative to the other options. Some current participants (SCCIs) may also be subject to higher regulatory imposts than under the other options.

The Bank's assessment is that the current impediments to new entry are also to the detriment of users of the payments system. The virtual card products proposed by several prospective entrants have the potential to significantly improve the efficiency of payments and reconciliation for businesses operating in the travel industry. Other potential entrants offer improvements in efficiency for other types of payments system users. More generally, any additional entry is likely to exert pressure on the prices and service levels of incumbent payments system participants.

Removing all access regulation has some potential benefits over Option 1 in that, by placing greater discretion in the hands of the schemes to determine eligibility for membership, it provides the potential for expanded entry. This benefits potential participants, while some existing participants may be subject to reduced regulatory imposts because they would no longer be required to be ADIs. However the outcomes of this approach are quite uncertain; while there are indications that the schemes are willing to admit a wider range of members, it would be possible for them to deny access to the current SCCIs if they chose. Similarly, while the schemes would be expected to take account of risks to their systems in deciding which new entities to admit, there is no requirement for them to do so. This approach also has the potential to increase the schemes' costs of administering participation relative to Option 1, as they would no longer be able to rely on APRA's authorisation and supervision as a screening mechanism for some entities.

Overall, the Bank's preliminary view is that there are insufficient controls in this approach to be confident of outcomes that properly balance the efficiency and competition benefits of new entrants against the potential risks they bring to the system.

On balance, the Bank's preliminary view is that varying the Access Regimes (in conjunction with the removal of Banking Regulation 4) would strike the best balance between the interests of potential and existing participants in the system and would be in the public interest. The schemes would be able to admit new types of entrants, while existing participants that had gained entry under the previous reforms would remain eligible. In the Bank's view, this provides the best prospect of increasing participation in the systems and therefore enhancing competition and efficiency. At the same time, it requires the schemes to establish risk-based criteria for determining eligibility and assessing applications, meaning that the schemes will be required to take account of risks in admitting new members and provide a risk-based justification for excluding members. This should help to provide an appropriate balance between competition and risk, while allowing the schemes discretion to tailor membership arrangements to match the risk appetite of the system.

This approach will result in some new costs for the schemes. There would be some cost in establishing and publishing eligibility and assessment criteria, along with a modest cost in reporting to the Reserve Bank each year. There are also likely to be costs involved in assessing potential entrants, both initially and on an ongoing basis if accepted, though these will be incurred anyway to the extent that access is broadened by some other means.

As noted elsewhere in this paper, the Access Regimes are interrelated with Banking Regulation 4 and APRA's SCCI regime. The Bank has control only over the Access Regimes, but changes to the Regimes would need to occur in conjunction with amendment of the Banking Regulations to be effective. The discussion in this section has focused on benefits that would flow from increased participation as a result of changes to the Access Regimes (supported by amendment of the Banking Regulations). It should be noted that there may be additional benefits from amending the Banking Regulations, including that APRA would no longer supervise card scheme members that were not conducting other banking business, allowing its resources to be better directed to its core mandate.

Other Considerations

The following briefly addresses some of the other issues raised during consultation.

A number of submissions supported a lighter-touch SCCI framework operated by APRA or another regulator. As discussed in section 3, an approach that creates ambiguity or confusion about the role of APRA's prudential supervision of ADIs, or that risks compromising confidence in that regime, is not desirable and is not supported by APRA. Accordingly, APRA has indicated that it does not support providing exemptions from Banking Act obligations for any credit card issuers or acquirers, or applying less stringent requirements than for other ADIs.

The creation of an entirely separate supervisory framework for SCCI-like entities would require legislative change and is outside the scope of the Board's consideration. In any event, given the nature and magnitude of the financial risks generated by the MasterCard and Visa card systems, the case for supervision of participants to be conducted by the public sector rather than by the schemes themselves is not strong.

Some submissions suggested that potential entrants could access partnership or sponsorship arrangements if they could not meet the hurdles set by the SCCI framework. This does not appear to be a persuasive argument against considering regulatory change. This approach imposes higher than necessary costs and potentially other commercial constraints on new entrants, inhibiting their capacity to compete with existing players.⁶

Allowing the schemes greater discretion over participation may result in parties that are not supervised by APRA issuing and acquiring card transactions in Australia. As a result, some participants might be subject to regulatory costs that are not imposed on others – an outcome identified by some as an uneven playing field. Under the proposed framework, regulatory costs will be imposed as a consequence of ADIs' broader banking activities, rather than card issuing and acquiring. Imposing higher than warranted regulatory costs on entities conducting only issuing and acquiring business to redress this would not be in the interests of the efficiency of the payments system. In any event, the ability of those conducting broader banking business to bundle card business with other banking products most likely confers ADIs an advantage over specialists in the card business.

The fact that the Reserve Bank is the only entity permitted to conduct banking business in Australia but not permitted to become a member of the MasterCard and Visa systems is an anomaly in the current Access Regimes. The Access Regimes' use of ADI status as the test for eligibility to the schemes was a means of obtaining some confidence in the financial standing of participants and thereby controlling risk. There is no case for excluding the Reserve Bank from the systems on the basis of risk. The fact that the Reserve Bank is eligible to participate in the eftpos system further highlights this anomaly and raises the possibility of distortions to competition between schemes if the Bank chose to become a member of one scheme, but could not join the others.

⁶ Note that any card transactions issued in Australia for a domestic purchase should be subject to the Reserve Bank's interchange regulation. A foreign-domiciled entity issuing to Australian residents should do so in a form that ensures that domestic transactions are captured in interchange cap calculations, including via a BIN sponsorship arrangement if necessary.

8. Draft Variation to the Access Regimes

Drafts of varied Access Regimes in line with the approach outlined in Option 2 of Section 6 are set out in Attachment 2. The principal changes from the existing Access Regimes are outlined below.

There are several potential changes in relation to eligibility to apply to participate in each of the three schemes in Australia. First, specialist credit card institutions (SCCIs) would be defined to include entities that were SCCIs as at a date to be specified. Eligibility to participate in the schemes would be extended to these entities as well as authorised deposit-taking institutions (ADIs). Second, each scheme would now have the ability to make other entities eligible to apply to participate by applying eligibility criteria that are reasonably related to the risks to the scheme or its participants, merchants or cardholders.

Each scheme would retain the ability to establish and apply any criteria to assess applications from eligible applicants for participation in the scheme in Australia. Each scheme would continue to be prohibited from discriminating between ADIs and SCCIs in exercising this ability and in relation to the rights and obligations of participants. However, this 'no-discrimination' provision would now be extended to cover any entity or class of entity, and would apply only to the extent that discrimination is not reasonably required to assess and address risks to the scheme or its participants, merchants or cardholders.

The draft regimes also incorporate potential changes to transparency and reporting requirements. Each scheme would be required to publish on its website its eligibility and assessment criteria and the risks the criteria seek to address, as well as the maximum time it will take to make a decision on any application. An annual certificate would be required from each scheme, detailing its compliance with the Access Regime and certain facts about applications to participate (e.g. date of each application and its assessment, its outcome and date of notification to the applicant, reasons for rejecting an application). A list of entities that ceased to be participants in each scheme during the year would also be required, together with the reasons they are no longer participants.

9. Next Steps

The Reserve Bank is seeking feedback on the the options for reform and the draft Access Regimes proposed under Option 2. Formal written submissions should be provided by no later than Friday, 17 January 2014, and should be sent to:

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

or

pysubmissions@rba.gov.au.

Submissions provided by email should be in a separate document, in Word or equivalent format. Submissions in PDF format must be accompanied by a version in an accessible format such as .rtf or .doc.

In the normal course of events, submissions will be posted on the Reserve Bank's website and those making submissions will be provided with an opportunity to discuss their submission with the Bank.

Attachment 1 – Questions Asked in the Initial Consultation

- (a) What is the nature of the risks faced by the card schemes and their members if a participant were to fail?
- (b) What is the most appropriate way to address those risks? What rules and procedures do the schemes currently have in place?
- (c) To what extent should the means of addressing risk be left in the hands of the schemes: that is, is there any role for regulatory oversight of these practices?
- (d) Is it appropriate to retain the Access Regimes in their current form?
- (e) How should the Access Regimes be varied if change is appropriate?
- (f) What criteria should be used to determine eligibility in the absence of the regulatory requirements on access?
- (g) What would be the potential effect on incumbent participants of extending eligibility for participation?
- (h) 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?
- (i) Are there alternative approaches that would allow a wider range of prospective entrants into the card schemes?

Attachment 2 – Draft Variation to the Access Regimes

Access Regime for the [] Credit Card System

Objective

The objective of this Access Regime is to promote efficiency and competition in the Australian payments system, having regard to:

- (i) the interests of current participants;*
- (ii) the interests of people who, in the future, may want access to the system;*
- (iii) the public interest; and*
- (iv) the financial stability of the designated credit card system.*

Application

1. This Access Regime is imposed under Section 12 of the *Payment Systems (Regulation) Act 1998*.
2. This Access Regime applies to the credit card system operated within Australia known as the [] system or the [] network card system designated on 12 April 2001 by the Reserve Bank of Australia under Section 11 of the *Payment Systems (Regulation) Act 1998*, ~~and which is referred to in this Access Regime as follows~~ as “the Scheme”.
3. In this Access Regime:

an “acquirer” is a participant in the Scheme in Australia that provides services to a merchant to allow the merchant to accept a credit card;

an acquirer is a “self acquirer” if it acquires transactions for which it or a related body corporate (as that term is defined in the *Corporations Act 2001*) is the merchant;

“authorised deposit-taking institution” has the same meaning given to that term in Section 5(1) of the *Banking Act 1959*;

“credit card” means a card issued under the rules of the Scheme that can be used for purchasing goods or services on credit, or any other article issued under the rules of the Scheme and commonly known as a credit card;

a “former specialist credit card institution” is an entity which, as at [date], was an authorised deposit-taking institution that engaged in credit card issuing, credit card acquiring or both (within the meaning of Regulation 4 of the *Banking Regulations 1966*)

and which did not otherwise conduct banking business within the meaning of Section 5 of the *Banking Act 1959*;

an “issuer” is a participant in the Scheme in Australia that issues credit cards to the issuer’s customers;

“merchant” means a merchant in Australia that accepts a credit card for payment for goods or services;

“rules of the Scheme” mean the constitution, rules, by-laws, procedures and instruments of the Scheme as applied in Australia, and any other arrangement relating to the Scheme by which participants in the Scheme in Australia consider themselves bound;

a “specialist credit card institution” is-:

(a) an authorised deposit-taking institution that engages in, or proposes to engage in, credit card issuing, credit card acquiring or both (within the meaning of Regulation 4 of the *Banking Regulations 1966*) and does not otherwise conduct banking business within the meaning of Section 5 of the *Banking Act 1959*; or

(b) a former specialist credit card institution;

terms defined or having a meaning in the *Payments Systems (Regulation) Act 1998* have the same meaning in this Access Regime.

4. Each participant in the Scheme must do all things necessary on its part to ensure compliance with this Access Regime.
5. If any part of this Access Regime is invalid, it is ineffective only to the extent of such part without invalidating the remaining parts of this Access Regime.
6. This Access Regime is to be interpreted:
 - (a) in accordance with its objective; and
 - (b) by looking beyond form to substance.
7. This Access Regime ~~comes originally came~~ into force on 23 February 2004. This Access Regime as amended comes into force on [date].

Eligibility ~~for participation to apply to participate in the Scheme~~

8. Any ~~person who is an~~ authorised deposit-taking institution or former specialist credit card institution is eligible to apply to participate in the Scheme in Australia.
9. The administrator of the Scheme may establish (through the rules of the Scheme or otherwise) any criteria for eligibility to apply to participate in the Scheme in Australia in respect of entities other than authorised deposit-taking institutions and former specialist credit card institutions (“eligibility criteria”), provided these eligibility criteria are reasonably related to the risks to the Scheme or its participants, merchants or cardholders that are likely to arise from the participation. If eligibility criteria are established they must be applied by the administrator of the Scheme in accordance with their terms.

10. Any entity, other than an authorised deposit-taking institution or former specialist credit card institution, is eligible to apply to participate in the Scheme in Australia, provided the entity meets any eligibility criteria.

Assessment of applications to participate in the Scheme and terms of participation

11. Subject to paragraphs ~~9~~ 12 and 13, the administrator of the Scheme must establish (through the rules of the Scheme or otherwise) and apply, ~~any~~ criteria ~~may be applied by the Scheme in for~~ assessing applications for participation in the Scheme in Australia by eligible applicants (“assessment criteria”).
912. Neither the rules of the Scheme, nor ~~the administrator of or~~ any participant in the Scheme, shall discriminate between specialist credit card institutions as a class and ~~other~~ authorised deposit-taking institutions other than specialist credit card institutions as a class in establishing or applying relation to any of the assessment criteria applied in assessing applications for participation or in relation to the rights and obligations of participants in the Scheme in Australia, except to the extent reasonably required to assess and address the risks to the Scheme or its participants, merchants or cardholders arising, or likely to arise, from the participation of the class of entity in the Scheme in Australia.
13. Without limiting paragraph 12, neither the rules of the Scheme, nor the administrator of or any participant in the Scheme, shall discriminate against an entity (or class of entity) in establishing or applying assessment criteria or in relation to the rights and obligations of participants in the Scheme in Australia, except to the extent reasonably required to assess and address the risks to the Scheme or its participants, merchants or cardholders arising, or likely to arise, from the participation of the entity (or class of entity) in the Scheme in Australia.

Terms of participation

- ~~10~~14. Neither the rules of the Scheme nor any participant in the Scheme shall prevent a participant in the Scheme in Australia from being:
- (~~i~~a) an issuer only; or
 - (~~ii~~b) an acquirer only; or
 - (~~iii~~c) both an issuer and an acquirer.
- ~~11~~15. Neither the rules of the Scheme nor any participant in the Scheme shall impose on a participant in the Scheme in Australia any fee, charge, loading or any form of penalty as a consequence of, or which is related in any way to, that participant’s activity as an acquirer relative to its activity as an issuer in the Scheme.
- ~~12~~16. Neither the rules of the Scheme nor any participant in the Scheme shall prohibit a participant in the Scheme in Australia from being a self acquirer if the participant can reasonably establish in accordance with the rules of the Scheme that, as a self acquirer, it has the capacity to meet the obligations of an acquirer.

Transparency and assessment of applications

- ~~1317.~~ The administrator of the Scheme ~~or a representative of the participants in the Scheme in Australia~~ must continuously publish the criteria applied in assessing applications for participation in the Scheme in Australia on the Scheme's website, or make such criteria generally available through other means within three months after this Access Regime comes into force, on the Scheme's website:
- (a) any eligibility criteria and the risks that the eligibility criteria seek to address;
 - (b) the assessment criteria and the risks that the assessment criteria seek to address;
and
 - (c) the maximum time it will take to assess any application to participate in the Scheme in Australia before a decision on the application will be made.
- ~~1418.~~ The administrator of the Scheme must provide to an person-entity that has applied to participate in the Scheme in Australia an estimate of the time it will take to assess the application before a decision on the application will be made.
- ~~19.~~ The administrator of the Scheme must assess applications in a timely manner without undue delay.
- ~~1520.~~ The administrator of the Scheme must provide to an person-entity that has applied to participate in the Scheme in Australia reasons in writing if the application is rejected, within one month after such rejection.

Certification and reporting

- ~~21.~~ The administrator of the Scheme must provide to the Reserve Bank on or before 31 July each year a certificate:
- (a) certifying, in respect of the twelve-month period ending on 30 June of that same year (the "reporting period"), that:
 - (i) at all times during the reporting period the eligibility criteria and the assessment criteria were in compliance with this Access Regime;
 - (ii) any applicant admitted to the Scheme during the reporting period met all risk-related eligibility and assessment criteria; and
 - (iii) at all times during the reporting period it has otherwise complied with this Access Regime; and
 - (b) listing all entities whose application to participate in the Scheme in Australia was either made during the reporting period or outstanding at the commencement of the reporting period and details for each entity (as applicable) of:
 - (i) the date on which the application was made;
 - (ii) the date on which the administrator of the Scheme finished its assessment of the application;
 - (iii) the outcome of the application;

- (iv) the date on which the administrator of the Scheme notified the entity of the outcome; and
- (v) where the application was rejected, the reasons the application was rejected; and
- (c) listing all entities who ceased to be participants in the Scheme in Australia during the reporting period and providing details of the reasons these entities ceased to be participants to the extent known by the administrator of the Scheme.

Access Regime for the Visa Debit System

Objective

The objective of this Access Regime is to promote efficiency and competition in the Australian payments system, having regard to:

- (i) the interests of current participants;
- (ii) the interests of people who, in the future, may want access to the system;
- (iii) the public interest; and
- (iv) the financial stability of the Visa Debit system.

Application

1. This Access Regime is imposed under Section 12 of the *Payment Systems (Regulation) Act 1998*.

2. This Access Regime applies to the debit card system operated within Australia known as the Visa Debit system designated on 18 February 2004 by the Reserve Bank of Australia under Section 11 of the *Payment Systems (Regulation) Act 1998*, ~~and~~ which is referred to ~~as follows in this Access Regime~~ as 'the Scheme'.

3. In this Access Regime:

an 'acquirer' is a participant in the Scheme in Australia that provides services to a merchant to allow the merchant to accept a debit card;

an acquirer is a 'self acquirer' if it acquires transactions for which it or a related body corporate (as that term is defined in the *Corporations Act 2001*) is the merchant;

'authorised deposit-taking institution' has the same meaning given to that term in Section 5(1) of the *Banking Act 1959*;

'credit card' means a card issued under the rules of one of the payment systems designated on 12 April 2001 by the Reserve Bank of Australia under Section 11 of the Payment Systems (Regulation) Act 1998 that can be used for purchasing goods or services on credit, or any other article issued under the rules of one of those payment systems and commonly known as a credit card;

'debit card' means a card issued by a participant in the Visa Debit payment system, under the rules of the Scheme, that allows the cardholder to make payments to merchants for goods and services by accessing a deposit account held at the participant;

a 'former specialist credit card institution' is an entity which, as at [date], was an authorised deposit-taking institution that engaged in credit card issuing, credit card acquiring or both (within the meaning of Regulation 4 of the Banking Regulations 1966) and which did not otherwise conduct banking business within the meaning of Section 5 of the Banking Act 1959;

an ‘issuer’ is a participant in the Scheme in Australia that issues debit cards to the issuer’s customers;

‘merchant’ means a merchant in Australia that accepts a debit card for payment for goods or services;

‘rules of the Scheme’ mean the constitution, rules, by-laws, procedures and instruments of the Scheme as applied in Australia, and any other arrangement relating to the Scheme by which participants in the Scheme in Australia consider themselves bound;

a ‘specialist credit card institution’ is:

(a) an authorised deposit-taking institution that engages in, or proposes to engage in, ~~debit card issuing, debit card acquiring or both credit card issuing, credit card acquiring or both~~ (within the meaning of Regulation 4 of the *Banking Regulations 1966*) and does not otherwise conduct banking business within the meaning of Section 5 of the *Banking Act 1959*; or

(b) a former specialist credit card institution;

terms defined or having a meaning in the *Payment Systems (Regulation) Act 1998* have the same meaning in this Access Regime.

4. Each participant in the Scheme must do all things necessary on its part to ensure compliance with this Access Regime.
5. If any part of this Access Regime is invalid, it is ineffective only to the extent of such part without invalidating the remaining parts of this Access Regime.
6. This Access Regime is to be interpreted:
 - (a) in accordance with its objective; and
 - (b) by looking beyond form to substance.
7. This Access Regime ~~comes originally came~~ into force on 1 September 2005. This Access Regime as amended comes into force on [date].

Eligibility ~~for participation to apply to participate in the Scheme~~

8. Any ~~person who is an~~ authorised deposit-taking institution or former specialist credit card institution is eligible to apply to participate in the Scheme in Australia.
9. The administrator of the Scheme may establish (through the rules of the Scheme or otherwise) any criteria for eligibility to apply to participate in the Scheme in Australia in respect of entities other than authorised deposit-taking institutions and former specialist credit card institutions (‘eligibility criteria’), provided these eligibility criteria are reasonably related to the risks to the Scheme or its participants, merchants or cardholders that are likely to arise from the participation. If eligibility criteria are established they must be applied by the administrator of the Scheme in accordance with their terms.

10. Any entity, other than an authorised deposit-taking institution or former specialist credit card institution, is eligible to apply to participate in the Scheme in Australia, provided the entity meets any eligibility criteria.

Assessment of applications to participate in the Scheme and terms of participation

11. Subject to paragraphs ~~9~~ 12 and 13, the administrator of the Scheme must establish (through the rules of the Scheme or otherwise) and apply, ~~any~~ criteria ~~may be applied by the Scheme in for~~ assessing applications for participation in the Scheme in Australia by eligible applicants ('assessment criteria').
912. Neither the rules of the Scheme, nor ~~the administrator of or~~ any participant in the Scheme, shall discriminate between specialist credit card institutions as a class and ~~other~~ authorised deposit-taking institutions other than specialist credit card institutions as a class in establishing or applying relation to any of the assessment criteria applied in assessing applications for participation or in relation to the rights and obligations of participants in the Scheme in Australia, except to the extent reasonably required to assess and address the risks to the Scheme or its participants, merchants or cardholders arising, or likely to arise, from the participation of the class of entity in the Scheme in Australia.
13. Without limiting paragraph 12, neither the rules of the Scheme, nor the administrator of or any participant in the Scheme, shall discriminate against an entity (or class of entity) in establishing or applying assessment criteria or in relation to the rights and obligations of participants in the Scheme in Australia, except to the extent reasonably required to assess and address the risks to the Scheme or its participants, merchants or cardholders arising, or likely to arise, from the participation of the entity (or class of entity) in the Scheme in Australia.

Terms of participation

- ~~1014.~~ Neither the rules of the Scheme nor any participant in the Scheme shall prevent a participant in the Scheme in Australia from being:
- ~~(i)~~ a) an issuer only; or
 - ~~(ii)~~ b) an acquirer only; or
 - ~~(iii)~~ c) both an issuer and an acquirer.
- ~~1115.~~ Neither the rules of the Scheme nor any participant in the Scheme shall impose on a participant in the Scheme in Australia any fee, charge, loading or any form of penalty as a consequence of, or which is related in any way to, that participant's activity as an acquirer relative to its activity as an issuer in the Scheme.
- ~~1216.~~ Neither the rules of the Scheme nor any participant in the Scheme shall prohibit a participant in the Scheme in Australia from being a self acquirer if the participant can reasonably establish in accordance with the rules of the Scheme that, as a self acquirer, it has the capacity to meet the obligations of an acquirer.

Transparency and assessment of applications

- ~~1317.~~ The administrator of the Scheme ~~or a representative of the participants in the Scheme in Australia~~ must continuously publish the criteria applied in assessing applications for participation in the Scheme in Australia on the Scheme's website, or make such criteria generally available through other means within three months after this Access Regime comes into force, on the Scheme's website:
- (a) any eligibility criteria and the risks that the eligibility criteria seek to address;
 - (b) the assessment criteria and the risks that the assessment criteria seek to address;
and
 - (c) the maximum time it will take to assess any application to participate in the Scheme in Australia before a decision on the application will be made.
- ~~1418.~~ The administrator of the Scheme must provide to an person-entity that has applied to participate in the Scheme in Australia an estimate of the time it will take to assess the application before a decision on the application will be made.
- ~~19.~~ The administrator of the Scheme must assess applications in a timely manner without undue delay.
- ~~1520.~~ The administrator of the Scheme must provide to an person-entity that has applied to participate in the Scheme in Australia reasons in writing if the application is rejected, within one month after such rejection.

Certification and reporting

- ~~21.~~ The administrator of the Scheme must provide to the Reserve Bank on or before 31 July each year a certificate:
- (a) certifying, in respect of the twelve-month period ending on 30 June of that same year (the 'reporting period'), that:
 - (i) at all times during the reporting period the eligibility criteria and the assessment criteria were in compliance with this Access Regime;
 - (ii) any applicant admitted to the Scheme during the reporting period met all risk-related eligibility and assessment criteria; and
 - (iii) at all times during the reporting period it has otherwise complied with this Access Regime; and
 - (b) listing all entities whose application to participate in the Scheme in Australia was either made during the reporting period or outstanding at the commencement of the reporting period and details for each entity (as applicable) of:
 - (i) the date on which the application was made;
 - (ii) the date on which the administrator of the Scheme finished its assessment of the application;
 - (iii) the outcome of the application;

- (iv) the date on which the administrator of the Scheme notified the entity of the outcome; and
- (v) where the application was rejected, the reasons the application was rejected; and
- (c) listing all entities who ceased to be participants in the Scheme in Australia during the reporting period and providing details of the reasons these entities ceased to be participants to the extent known by the administrator of the Scheme.