



# RESERVE BANK OF AUSTRALIA

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In reply please quote *PY*

30 April 2007

Mr Michael Funston  
EFT Code of Conduct Review  
Australian Securities and Investments Commission  
GPO Box 9827  
SYDNEY NSW 2001

Dear Mr Funston

### **SUBMISSION ON THE EFT CODE OF CONDUCT**

The Reserve Bank welcomes the opportunity to make a submission to ASIC's 2007 Review of the EFT Code of Conduct.

This submission addresses Question 8 in the January 2007 Consultation Paper, which asks:

*Are there developments in the regulatory environment that the Review Working Group should particularly consider? What are the implications of those developments for the EFT Code?*

In particular, the Reserve Bank believes there is merit in considering changes to the drafting of the EFT Code that would clarify the obligations of ATM owners and card-issuing institutions relating to the disclosure of any charges levied by ATM owners.

### ***Background***

For a number of years now, the Reserve Bank has encouraged industry-based reform of the ATM system. In doing so, the Reserve Bank has indicated that any reforms should ensure that there are not unnecessary barriers to participating in the ATM system, and that there are no technical or business restrictions limiting the ability of ATM owners to impose a direct charge. This latter requirement reflects the Reserve Bank's view that ATM owners should be able to charge a transaction fee to cardholders if they so desire. Such charges should be disclosed by the ATM owner at the time of the transaction and the cardholder should be allowed to cancel the transaction at no cost after such disclosure.

The Australian Bankers' Association (ABA) wrote to the Reserve Bank in December 2006 outlining a number of concerns in relation to direct charging.<sup>1</sup> One of those concerns was that the EFT Code currently requires card issuers to disclose to cardholders the amount of any direct charge. The ABA argued that banks would have difficulty meeting this requirement, since any direct charge would be levied by the ATM owner and, without costly system changes, banks would not know what had actually been charged. While the Reserve Bank does not share the ABA's view that the current EFT Code requires disclosure by the cardholder's bank of ATM direct charges, it recognises that this is an area of ambiguity in the EFT Code.

There are two main clauses in the current Code where some clarification is likely to be useful. The first is clause 2.3 which states:

'Account institutions will ensure that, before an access method is used for the first time after issue, the user to whom it is issued has been provided with information on:

- (a) any charges for the issue or use of an access method, separate from activity or other charges applying to the account generally;
- (b) the nature of any restrictions imposed by the account institution on the use of the access method (including any daily transaction limit and other periodic transaction limits which apply to the access method, an account or electronic equipment) and an indication that merchants or other institutions may impose additional restrictions; ...'

The second is clause 4.3, which states

'Except for statements issued outside the usual statement cycle, the statement is to show: .....

- (b) any charges relating solely to the use of an access method (identified as a separate item; and ...'

Although details of any future direct charging regime have not yet been determined, the Reserve Bank believes that the EFT Code should be able to accommodate an outcome in which ATM owners directly charge cardholders who use their machines. Accordingly, clauses 2.3(a) and 4.3(b) could be modified to clarify that the account institution is only required to provide specific information on charges imposed by the account institution itself. In addition, the account institution could be required to provide users with a general indication that third parties may impose additional charges.

The other clause that appears to bear on the issue of direct charging is clause 4.6. Our interpretation of this clause is that contracts between account institutions and ATM owners should include a requirement for ATM owners to disclose to the user the amount of any fee being charged and provide the user an opportunity to cancel without

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<sup>1</sup> See [http://www.rba.gov.au/MediaReleases/2007/mr\\_07\\_02.html](http://www.rba.gov.au/MediaReleases/2007/mr_07_02.html).

charge. Our view is that such disclosure is appropriate and no further changes to this clause would seem necessary.

If you would like to discuss our submission, or would like further information on the ATM reform process, I can be contacted by email at [bullockm@rba.gov.au](mailto:bullockm@rba.gov.au) or by phone on (02) 9551 8710.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Michele Bullock".

Michele Bullock  
Head of Payments Policy