

17 April 2012

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



By Email to: pysubmissions@rba.gov.au

Dear Dr Richards,

Payments System Board Consultation on Replacing the eftpos Designation

I refer to the Reserve Bank of Australia (RBA) Media Release (and accompanying discussion paper) of 9 March 2012 addressing the above matter. The Commonwealth Bank of Australia (the Bank) appreciates the opportunity to lodge this Submission which we understand will be published on the RBA web site.

As you are aware, this is a matter of considerable interest to the Bank (and it has been for some time) and accordingly we look forward to meeting with you and your staff to discuss it at your convenience.

Options

The “review of the Regulatory Framework for the eftpos System: Consultation on Designation” discussion paper has invited comments on the options proposed for defining the eftpos system in a designation.

The Bank has long argued that there is no need for ongoing regulation of the eftpos System. Our preference is thus that the existing designation be revoked, without replacement.

However, in the event that designation is deemed to remain appropriate, then there is a clear need to commence this process by updating the relevant definition of the eftpos System. In the circumstances, and as a founding member of eftpos Payments Australia Ltd (ePAL), we support Option 1 as identified in the above discussion paper – ie, the designation of the eftpos System should be based upon ePAL’s rules. To the Bank, this is a logical consequence of the establishment of ePAL and is consistent with other designations currently in place.

Further Considerations

The discussion paper notes the broader regulatory framework within which designation operates. As noted above, this has been a matter of interest to the Bank for some time now and has been the subject of correspondence, and discussion, with the RBA in the past. Although the Payments System Board (the Board) is not yet seeking comment on the broader regulatory framework, it seems opportune to remind the Board (and the RBA) of the views we have previously expressed and to place them on the public record. Accordingly, a copy of our

letter of 20 September 2011 is appended. We look forward to the Board's, and the RBA's, further deliberation on these matters. In passing we urge the Board and the RBA to address these broader matters with some urgency – current regulation continues to impact adversely on business and investment decisions, and the sooner that such matters can be addressed, the better.

Thank you again for the opportunity to contribute to this consultation process. The Bank looks forward to this progressing and participating therein.

We would be pleased to meet with you to discuss any aspect of this Submission and request that you contact the writer directly should you wish to do so.

Yours sincerely

[Signed]

Stuart Woodward
General Manager
Representation

COPY OF LETTER

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Retail Products
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20 September 2011

Dr Chris Kent
Head of Payments Policy Department
Reserve Bank of Australia
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Sydney NSW 2001



By Email to: KentC@rba.gov.au

Dear Dr Kent,

Re: eftpos Regulation

I refer to the Reserve Bank's media release of 2 September 2011 concerning EFTPOS regulation. The Commonwealth Bank welcomes the decision of the Payments System Board (PSB) to review the EFTPOS regulatory framework. While the Reserve Bank has not called for consultation at this point, I wish to take the opportunity to provide yourself and the PSB with the Commonwealth Bank's views on EFTPOS regulation in anticipation of your consideration of this matter.

At the time the EFTPOS Access Code, Access Regime, and interchange fee Standard were first drafted, there was no:

- EFTPOS Scheme (as administered by EFTPOS Payments Australia Ltd – EPAL);
- multilateral EFTPOS interchange fee (as set out in EPAL Rules); or
- Community of Interest Network (COIN) by which financial institutions and other organisations participating in EFTPOS, and other payments networks, communicate with each other.

These all now form part of the EFTPOS landscape.

Together, these developments have improved the process for a new entrant to access the EFTPOS network while also simplifying ongoing EFTPOS governance arrangements. Today's multilateral interchange fee structure removes the need for commercial negotiation and provides pricing certainty, while the COIN has removed outdated communications protocols.

In light of these developments, we believe that there is no need for the EFTPOS Access Code and associated Regime – and also for that there is no need for the regulation encompassed within the Revised EFTPOS Interchange Fee Standard as promulgated in November 2009. Given the price certainty offered by a multilateral interchange fee, we especially do not see the need for the 'No Discrimination' clauses in the Access Regime or the ongoing regulation of bi-

lateral interchange fees. These clauses have little benefit for potential entrants seeking commercial arrangements with members of EPAL.

Furthermore, while the need for regulation of bi-lateral interchange fees (and thus the current Standard) has, we believe, passed, we consider that should the PSB see an ongoing need for a bi-lateral interchange fee benchmark, there should be greater practical and directional consistency between such a benchmark and multilateral EFTPOS interchange fee benchmarks. As you are aware, at present it is not possible for a bilateral interchange negotiation for EFTPOS purchase transactions to reach the same quantitative outcome as the EPAL multilateral interchange fee. We encourage the PSB especially to consider the bilateral EFTPOS interchange benchmark as part of its broader review of EFTPOS Regulation.

We think there is no need for the continuation of the Access Code now that EPAL has clear rules and the COIN offers an easier network connection for new entrants. EPAL could perform all remaining functions provided by EFTPOS Access Australia Ltd and the Access Code. Specifically, EPAL can offer certainty of access to potential entrants, minimum connection standards for dealings with existing EFTPOS participants, and controlled commercial access charges for new entrants. Were EPAL to do so, the need for the Access code would be obviated.

Under the conditions we have suggested above, new entrants would have certainty as to transaction pricing, certainty as to network connection and member integration costs as governed by EPAL, certainty as to the timing of network and member access as stipulated by EPAL and consistency of relevant interchange fee arrangements. EPAL should be entrusted to govern its own network, subject to ongoing high level regulatory oversight by the Reserve Bank.

I would be happy to meet with you to discuss our thoughts and EFTPOS regulation more broadly at any time and ask that you contact me (details above) or Stuart Woodward (02-9118-6545 or woodward@cba.com.au) to this end.

We look forward to the opportunity to participate in any public consultation process to be undertaken concerning EFTPOS regulation in the future and the associated opportunity to expand on the above thoughts.

Yours sincerely,

[SIGNED]

Michael Cant
Executive General Manager
Retail Products