

Access Regime

Access Regime for the Visa 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 VISA system or the VISA network card system designated on 12 April 2001 by the Reserve Bank of Australia under section 11 of the *Payment Systems (Regulation) Act 1998*, which is referred to 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 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 31 December 2014, 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 *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 originally came into force on 23 February 2004. This Access Regime as amended comes into force on 1 January 2015.

Eligibility to apply to participate in the Scheme

- 8. Any 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 12 and 13, the administrator of the Scheme must establish (through the rules of the Scheme or otherwise) and apply criteria for assessing applications for participation in the Scheme in Australia by eligible applicants (“assessment criteria”).
- 12. 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 authorised deposit-taking institutions other than specialist credit card institutions as a class 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 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.

14. Neither the rules of the Scheme nor any participant in the Scheme shall prevent a participant in the Scheme in Australia from being:
 - (a) an issuer only; or
 - (b) an acquirer only; or
 - (c) both an issuer and an acquirer.
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.
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

17. The administrator of the Scheme must continuously publish 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 terms of participation will be proposed to the applicant or a decision on the application will be made.
18. The administrator of the Scheme must provide to an entity that has applied to participate in the Scheme in Australia an estimate of the time it will take to assess the application before terms of participation will be proposed to the applicant or a decision on the application will be made.
19. The administrator of the Scheme must assess applications in a timely manner without undue delay.
20. The administrator of the Scheme must provide to an 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, at the time of admission, 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 outcome of the application;
 - (iii) the date(s) on which any proposal of terms of participation or conditional approval was communicated by the administrator of the Scheme to the applicant, the date on which the final decision on the application was communicated to the applicant and, if the final decision was to admit the applicant to the Scheme, the date on which the applicant was admitted to the Scheme; and
 - (iv) 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.