



RESERVE BANK OF AUSTRALIA

Payment Systems (Regulation) Act 1998

This notice is published in accordance with the requirements set out in Section 28(2)(a) of the *Payment Systems (Regulation) Act 1998*. An earlier proposed Access Regime was published on 14 December 2001 and a further proposed Access Regime was published when the Reserve Bank announced its credit card reforms on 27 August 2002. A number of submissions made to the Reserve Bank commented on the earlier proposed Access Regime.

The Reserve Bank of Australia proposes to impose an Access Regime under Section 12 of the Act on the participants in each of the three payment systems designated on 12 April 2001 by the Reserve Bank under Section 11 of the Act, being:

- (i) the credit card system operated within Australia known as the Bankcard Scheme;
- (ii) the credit card system operated within Australia known as the MasterCard system or the MasterCard network card system;
- (iii) the credit card system operated within Australia known as the VISA system or the VISA network card system.

Summary of purpose and effect of the proposed Access Regime

The purpose of the Access Regime is to ensure that any restrictions imposed on participation in the designated credit card schemes do not inhibit competition any more than is necessary to protect the financial safety of the system. The Access Regime requires that the class of specialist credit card institutions supervised by the Australian Prudential Regulation Authority (APRA) be eligible to apply for membership in the designated credit card schemes on the same basis as other authorised deposit-taking institutions. The Access Regime also requires the removal of certain restrictions and penalties on the credit card acquiring activity of members. The effect of the Access Regime will be to promote efficiency and competition in the provision of credit card payment services to merchants and cardholders by facilitating participation in the designated credit card schemes of institutions that specialise in credit card issuing, acquiring, or both, and that do not conduct other banking business.

A regulation has been enacted under the *Banking Act 1959* which defines credit card issuing and acquiring activities in the designated credit card systems as banking business. This regulation was gazetted on 23 July 2003. APRA has also made a prudential standard, APS 240 - Risk Management of Credit Card Activities, and published a guidance note, Guidelines on Authorisation of Specialist Credit Card Institutions. This standard and note are available at www.apra.gov.au.

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Submissions on the proposed Access Regime, a copy of which is attached to this notice, should be made by 12 September 2003 to:

Acting Head of Payments Policy
Reserve Bank of Australia
GPO Box 3947
SYDNEY NSW 2001

There is no need to repeat submissions made in response to the earlier proposed Access Regime as those submissions will be considered.

Signed



IJ Macfarlane
Governor
Reserve Bank of Australia

Date

23/7/2003

Access Regime

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 [] designated on 12 April 2001 by the Reserve Bank of Australia under Section 11 of the *Payment Systems (Regulation) Act 1998*, and referred to 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;

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 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*;

terms defined 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:
 - in accordance with its objective; and
 - by looking beyond form to substance.
7. This Access Regime comes into force on [].

Eligibility for participation

8. Any person who is an authorised deposit-taking institution is eligible to apply to participate in the Scheme in Australia. Subject to paragraph 9, any criteria may be applied by the Scheme in assessing applications for participation in the Scheme in Australia.
9. Neither the rules of the Scheme nor any participant in the Scheme shall discriminate between specialist credit card institutions as a class and other authorised deposit-taking institutions as a class in relation to any of the criteria applied in assessing applications for participation or in relation to the rights and obligations of participants in the Scheme in Australia.

Terms of participation

10. Neither the rules of the Scheme nor any participant in the Scheme shall prevent a participant in the Scheme in Australia from being:
 - (i) an issuer only; or

- (ii) an acquirer only; or
- (iii) both an issuer and an acquirer.

11. 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. 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

13. The administrator of the Scheme or a representative of the participants in the Scheme in Australia must 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 as soon as practicable after this Access Regime comes into force.
14. The administrator of the Scheme must provide to a person that has applied to participate in the Scheme in Australia reasons in writing if the application is rejected, as soon as practicable after such rejection.