

2016/17 Assessment under the Regulator Performance Framework

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1. Introduction and Summary of Assessment

1.1 Introduction

In 2014 the Australian Government released its Regulator Performance Framework (the Framework), as part of its commitment to reduce the cost of unnecessary or inefficient regulation imposed on individuals, business and community organisations. The Framework consists of six outcomes-based key performance indicators that articulate the Government's overarching expectations of regulator performance:

1. Regulators do not unnecessarily impede the efficient operation of regulated entities.
2. Communication with regulated entities is clear, targeted and effective.
3. Actions undertaken by regulators are proportionate to the regulatory risk being managed.
4. Compliance and monitoring approaches are streamlined and coordinated.
5. Regulators are open and transparent in their dealings with regulated entities.
6. Regulators actively contribute to the continuous improvement of regulatory frameworks.

The Framework aims to encourage regulators to undertake their functions with the minimum impact necessary to achieve regulatory objectives. It is focused on the administration, monitoring and enforcement of regulation, rather than the setting of policy. The Bank is supportive of the Framework and seeks to continuously improve its regulatory approach.

The Framework requires regulators to measure and report on their performance against the key indicators on an annual basis. The Bank, in consultation with stakeholders, developed two sets of metrics to allow assessment against the indicators – one set for its retail payments responsibilities, the other for its clearing and settlement (CS) facility responsibilities; these have been made public.¹ The metrics are a combination of factors that can be objectively assessed by the Bank and the results of surveys of regulated entities (see Appendices 1 and 2 for details). To support its second assessment, the Bank again surveyed the retail payment systems and CS facilities it regulates. To encourage frank feedback, the surveys were collected by the Bank's Risk and Compliance Department, which anonymised the responses before forwarding them on to Payments Policy Department. A summary of retail payments stakeholder feedback is provided in Appendix 3. Stakeholders were also given an opportunity to provide feedback on the conclusions and 'validate' the draft version of this assessment. Stakeholders opted not to provide any further feedback before the assessment was finalised.

1 Available at <http://www.rba.gov.au/payments-and-infrastructure/pdf/regulator-performance-framework-metrics--retail-payment-systems.pdf> and <http://www.rba.gov.au/payments-and-infrastructure/pdf/regulator-performance-framework-metrics--cs-facilities.pdf>.

Each assessment is set out under the six key performance indicators of the Framework. For each indicator, a summary of the Bank's performance against the agreed metrics is provided, followed by an overall assessment, including actions the Bank proposes to take to improve its performance.

1.2 Summary of Assessment

With respect to its regulation of **retail payment systems**, the Bank is assessed to have met the key performance indicators in 2016/17, though with room for improvement in some areas. Average responses indicated satisfactory (or better) performance for all metrics other than one; stakeholder feedback was largely positive, although one entity was more critical. An inclusive approach to consultation was seen as providing the Bank with a good understanding of payment systems and awareness of the environment faced by regulated entities. Some stakeholders nonetheless indicated that there were opportunities for the Bank to further develop its understanding of emerging issues and new technology. The Bank's consultative processes were also viewed as a positive element of its communication with stakeholders. Respondents described consultation documents as well written, noted that Bank staff provide ample opportunity to meet and discuss issues and largely viewed the Bank's responses to impacted parties as timely. The Bank is encouraged to continue its efforts to utilise 'plain-English' in communications, including in the guidance provided to stakeholders, and to seek feedback when providing guidance to ensure it is clear and well understood.

Processes for monitoring and ensuring compliance with regulation are light-touch, with card schemes self-certifying compliance. All reporting schemes were in a position to supply quarterly data within the timeframe requested. There were no enforcement actions in the assessment period and monitoring costs were modest. The Bank seeks to streamline the application of regulation by actively coordinating with the Australian Competition and Consumer Commission (ACCC, the other regulator with a competition mandate in respect of payment systems). Requests by the Bank for information from the schemes are generally viewed as reasonable.

The Bank maintains transparency in its approach to policy, in part via the publication of a large amount of information on the industry and regulation. Where schemes make specific requests for information or clarification, most are satisfied with the Bank's responses. The Bank will continue to seek feedback when providing guidance to ensure that guidance is clear and well understood. The Bank seeks to contribute to the continuous improvement of its regulatory framework through ongoing monitoring and research on retail payments matters, engagement with overseas regulators and participation in international committees related to retail payments.

With respect to its regulation of **CS facilities**, the Bank is also assessed as having met the key performance indicators, once again with room for improvement in some areas. To ensure the Bank does not unnecessarily impede the efficient operation of CS facilities, the Bank's regulatory framework is closely aligned with international standards. However, the Bank will keep the process of annual assessments and publication of reports under review with a view – without compromising the benefits of disclosure – to minimising the burden on regulated entities.

The feedback on domestic cooperation was unanimously positive, with noted improvements in the coordination between domestic regulators (the Bank and ASIC) in recent years. However, coordination with and/or placing greater reliance on, overseas regulators was seen as an area that could be improved. The Bank acknowledges that the latter arrangements are evolving, which is to be expected as the arrangements are relatively new.

All the CS facilities agreed that the Bank generally demonstrates a good understanding of the facilities' operating environment. A number of possible actions have been identified by this assessment. These are summarised in Box A.

Box A: Actions Identified in this Assessment²

Retail Payment Systems

- look for further opportunities to actively engage with a diverse range of participants, including from the fintech sector, to better understand emerging trends and technology
- continue efforts to utilise 'plain-English' in communications, including in the guidance provided to stakeholders
- continue to seek feedback when providing guidance to ensure it is clear and well understood
- continue to engage with regulated entities to ensure that the timeframes for responding to information requests are reasonable

Clearing and Settlement Facilities

- continue to keep the annual assessment process under review with a view to minimising the burden on regulated entities without compromising the benefits of disclosure
- continue to improve coordination with overseas regulators and give further consideration to the scope for greater reliance on foreign regulatory authorities
- continue to explore ways to ensure consistency in the regulatory approach.

2 See Appendix 4 for a summary of Actions Identified in the 2015/2016 Assessment.

2. Retail Payment Systems

The following sections set out the Reserve Bank's assessment under the Regulator Performance Framework of its activities in relation to the regulation of retail payment systems. The assessment is based on the metrics established in mid 2015, with minor adjustments to questions in response to feedback on the 2015/16 survey (Appendix 1), and draws on input from stakeholders gathered through an anonymous survey. The stakeholder group consists of the four payment card schemes that were subject to Reserve Bank regulation during the assessment period – eftpos Payments Australia Limited (ePAL), MasterCard, Visa and American Express. Three schemes responded to the survey. A summary of the numerical survey responses is provided in Appendix 3.

2.1 Regulators do not unnecessarily impede the efficient operation of regulated entities

The metrics for this key performance indicator (KPI) relate to: evidence of stakeholder consultation and engagement; stakeholders' assessment of the Bank's understanding of the environment, emerging issues, unintended consequences and compliance costs; and stakeholder views on opportunities for reducing compliance costs and unintended consequences of the administration, monitoring and enforcement of regulation.

The Bank engages extensively with industry in an effort to understand emerging issues and the environment in which regulated entities operate. In 2016/17, Payments Policy staff held 52 meetings with stakeholders in relation to regulatory consultations and a further 88 meetings related to developments in the industry, including 15 with industry associations. This includes only formally scheduled meetings with Payments Policy staff; it does not include numerous less formal meetings, nor meetings between the Payments System Board Chair or Deputy Chair with stakeholders. The Bank also convened three meetings of the Payments Consultation Group which was established with the aim of providing a more structured mechanism for users of the payments system to provide feedback on the payments system, including the payments environment and emerging issues.

Stakeholders on average rated the Bank's understanding of the operating environment for regulated entities and its understanding of emerging issues as satisfactory. While the Bank's understanding of payment systems in general was seen as strong, feedback suggests there is scope for the Bank to further develop its understanding of specific issues relating to card issuing, emerging technology and trends, and the likely impact of new technology on the industry. One entity suggested that consultation could reach out more broadly to participants not directly impacted by regulation in order to gain a better appreciation of the potential indirect impact of regulatory decisions.

Respondents rated the Bank's awareness of unintended consequences of administering, monitoring and enforcing its regulation as poor, although for different reasons. One stakeholder criticised the Bank's 'light touch' approach to regulation, suggesting negotiated outcomes and the use of voluntary undertakings to achieve policy objectives had created uncertainty and required additional *ad hoc* arrangements. By contrast, another stakeholder acknowledged the extent of the Bank's engagement but questioned the Bank's appreciation of the impact of regulation, suggesting the Bank could look for

opportunities to improve its understanding of the industry. The Bank's efforts to minimise compliance costs were rated as satisfactory; one entity indicated that the Bank had demonstrated flexibility in its approach to reporting requirements, another entity called for less frequent compliance checks (in reference to the benchmarks in the interchange fee standards).

2.1.1 Reserve Bank assessment

While the Bank already engages extensively with stakeholders, the Bank will look for opportunities to further extend its understanding of emerging issues and new technology. Engagement with stakeholders will continue to be supplemented by engagement with a diverse range of entities, such as fintechs, industry associations (both payments-related and specific to fintech) and device manufacturers in order to expand its understanding of emerging issues and new technology.

In relation to concerns around the Bank's 'light-touch regulation', the Bank's objectives and approach to regulation of the payments system are shaped by its governing legislation, along with the intent of the legislators expressed at the time the legislative framework was established. There is a presumption in favour of self-regulation by the industry, with the Bank only intervening where the industry is unable to address a public interest concern. Consistent with this, the Bank will continue to seek negotiated outcomes including undertakings as appropriate. Regarding the frequency of interchange compliance reporting, the Bank views quarterly compliance as being appropriate and adopted it following significant engagement on the issue with schemes.

2.2 Communications with regulated entities are clear, targeted and effective

The metrics for this KPI relate to: publication of regulations and explanatory material; evidence of stakeholder consultation and stakeholders' assessment of engagement when developing or reviewing regulation; stakeholders' assessment of the adequacy of the guidance and information provided to regulated entities; and stakeholders' assessment of the Bank's responses to requests for information and clarification.

All Reserve Bank regulatory instruments are publicly available on the Bank's website. When the Bank implements or changes regulation, a range of explanatory material is published, typically including a media release, a detailed 'conclusions' document, an explanatory statement accompanying the instrument and, if required, a Regulation Impact Statement. During 2016/17, the Bank conducted a public consultation on Dual-Network Cards and Mobile Wallet Technology; the consultation paper, associated media release and all non-confidential submissions were published on the Bank's website. The outcome of the consultation was communicated as part of a media release following the May Payments System Board meeting. Over the course of the year, 52 consultation meetings took place.

There was a divergence of views expressed regarding the Bank's engagement with stakeholders during the development of regulation, the adequacy of guidance and other information provided to entities, and the Bank's responses to requests for information or clarification. The majority of respondents (and indeed other stakeholders) expressed a very positive view of the Bank's communications, describing consultations as well written and responses to stakeholder questions as timely. It was noted that the Bank gathers and publishes useful market information and that while the drafting of some of the standards may be complex, the Bank was always willing to discuss and provide guidance in a pragmatic way. However, one of the respondents, while acknowledging the Bank

provided plenty of opportunity for engagement, was critical of the Bank's guidance, information and responses to requests, characterising them as 'confusing, vague and poorly timed'.

2.2.1 Reserve Bank assessment

The Reserve Bank has multiple modes of communication on regulation and that communication is largely well regarded by stakeholders. While most feedback ranged from good to very good, the Bank should aim to achieve a more uniform result; encouraging feedback from stakeholders when providing guidance to ensure it is clear and well understood by all parties. Positive feedback from stakeholders suggests the Bank's efforts to utilise 'plain English' in its communications have been effective and should continue, including in the guidance provided to stakeholders.

2.3 Actions undertaken by regulators are proportionate to the regulatory risk being managed

The metrics for this KPI relate to: the ability of regulated entities to self-certify compliance with regulation where appropriate; the number and type of enforcement actions undertaken; and estimates of person-hours expended on demonstrating compliance with regulation. Respondents were also asked for views on the scope for a more risk-based approach to regulation.

Regulated entities' estimates of their costs of demonstrating compliance during 2016/17 ranged between 30 person hours and 60–100 person hours. There were no enforcement actions undertaken during 2016/17.

There was limited feedback on this metric from stakeholders. One stakeholder indicated that the current approach already exhibits a risk-based approach, but questioned whether regulatory solutions have been too narrowly focused.

Reserve Bank assessment

While there are a range of estimates of compliance costs, even the highest estimates remain relatively modest and there have been no enforcement costs. The Bank considers that regulatory solutions relate to policy decisions made by the Bank after balancing all relevant factors, and do not reflect deficiencies in the application of regulation.

2.4 Compliance and monitoring approaches are streamlined and coordinated

The metrics for this KPI relate to: the existence of documented arrangements for policy coordination and information sharing with the ACCC; stakeholders' assessment of the reasonableness of data and other *ad hoc* information requests by the Reserve Bank in terms of scope, frequency and timing; stakeholders' views on the scope for data requested to be better aligned with that used internally by regulated entities; and the scope for data requirements and processes to be better aligned with other regulators.

The Reserve Bank has had a memorandum of understanding in place with the ACCC, covering policy coordination and information sharing, since 1998, which is published on the Bank's website.

On average, regulated entities rated the reasonableness of data requests by the Bank and the reasonableness of other *ad hoc* information requests as good. It was noted that *ad hoc* requests are

not onerous, with most respondents describing the scope, frequency and timing as appropriate and reasonable. One respondent indicated that requests for data have been too frequent and suggested that while *ad hoc* information requests don't occur often, they can be 'poorly timed'.

Reserve Bank assessment

Ratings that range from satisfactory to very good suggest that the Bank's compliance and monitoring processes generally are reasonable. Quarterly interchange reporting appears to have been managed effectively by schemes over the course of the year, with schemes typically providing data to the Bank two to three weeks following the end of the quarter (the requirement is by the end of the month). The Bank views quarterly compliance reporting as being necessary, and not unreasonable given the frequency and speed with which schemes have been able to modify their interchange schedules in the past. The Bank will continue to consult carefully with regulated entities when making information requests and will be mindful of timing constraints they may have. The Bank notes that where important policy issues are identified, it is likely that information requests may need to be made with relatively short notice, and that to date it has used its formal information gathering powers extremely infrequently.

2.5 Regulators are open and transparent in their dealings with regulated entities

The metrics for this KPI relate to: the publication of regulatory objectives; the publication of regulatory developments and a summary of stakeholder feedback in the Payments System Board Annual Report; accessibility of policies and reports; stakeholders' assessment of the adequacy of the information that the Bank makes available publicly on its approach to regulation and the regulatory framework; and stakeholders' assessment of the Bank's responsiveness to enquiries regarding the operation of the regulatory framework.

The Bank's objectives and approach for regulation are published on its website.³ Regulatory and other policy developments during each financial year are described in the Payments System Board Annual Report.

The Bank is committed to upholding the Web Content Accessibility Guidelines (WCAG) 2.0. Work is underway across the Bank to achieve compliance in line with the Web Accessibility National Transition Strategy.

Stakeholders' assessment of the adequacy of the information that the Bank makes available publicly on its approach to regulation and the regulatory framework ranged from poor to very good. One respondent suggested that the information that the RBA makes available publicly was too heavily focused towards merchants. Others had a more favourable assessment but saw potential for further improvement by publishing information on the Bank's regulatory focus areas and timing schedule for the coming 1–2 years to assist entities with planning their compliance activities.

There was a similar divergence of views with respect to the Bank's responsiveness to requests and queries regarding the operation of the regulatory framework. While most stakeholders indicated that

3 <<https://www.rba.gov.au/payments-and-infrastructure/payments-system-regulation/approach-to-regulation.html>>

the Bank is prompt to respond and clear in its responses, one stakeholder described the Bank's responses as 'simplistic and impolite' and 'often slow'.

Reserve Bank assessment

The Bank publishes a significant amount of information on its regulatory activities and is generally viewed as responsive to requests for information or clarification from regulated entities. The Bank appreciates that stakeholders have an interest in the Bank's strategic priorities and medium-term payments work agenda and it has published material on this in the Payments System Board's 2016/17 Annual Report. The Bank encourages regulated entities to seek further clarification where they feel that they have not received sufficient information from the Bank.

2.6 Regulators actively contribute to the continuous improvement of regulatory frameworks

The metrics for this KPI relate to: Reserve Bank engagement in domestic and international policy research on retail payments; frequency of engagement with regulated entities and other stakeholders; reporting of stakeholder feedback to the Payments System Board; and stakeholders' views on the Bank's efforts to establish and maintain cooperative and collaborative relationships with stakeholders.

The Bank's Payments Policy Department conducts research and analysis of developments, including regulatory developments, that are relevant to the Australian and overseas payments systems. It frequently engages with overseas regulators and other parties to better understand emerging trends and alternative approaches to regulation. During 2016/17, the Bank participated in a number of international groups that deal with payments regulation, including the Committee for Payments and Market Infrastructures and its working group on Retail Payments Digital Innovation, and the EMEAP Working Group on Payment and Settlement Systems. The Bank has also engaged extensively with regulated entities and other stakeholders. Of nearly 180 stakeholder meetings related to retail payments during 2016/17, 57 were initiated by the Bank, 112 by stakeholders and 9 were standing engagements. The majority of these meetings related to regulatory consultations or discussions of industry developments, with 25 focused on clarification of regulation or the Bank's regulatory approach.

Stakeholder feedback gathered through the Regulator Performance Framework process was reported to the Payments System Board.

Stakeholders expressed divergent views in regard to the Bank's efforts to establish and maintain cooperative and collaborative relationships. Most rated the Bank's efforts as very good, indicating that the Bank seeks to work constructively with stakeholders and maintain positive relationships, describing the Bank as inclusive in its consultation processes. However, one entity rated the Bank's efforts in this area as poor, categorising the relationship as 'adversarial', and calling for more direct access to the Payments System Board.

Reserve Bank assessment

The Bank actively monitors and analyses payments system developments. It engages actively with the international regulatory community to gain a better understanding of international trends and regulatory best practice, as well as to contribute to the development of the international community's thinking on regulation. During 2016/17, a significant focus of these efforts, both domestically and

internationally, has been financial technology (fintech), including digital currencies and distributed ledger technology.

The Payments System Board has direct engagement with the industry through its annual meetings with the Australian Payments Council, and the Board considers that this is an appropriate channel for direct engagement. The Chair of the Board typically meets with members of the global management teams of the international card schemes when they visit Australia and will also look for other suitable opportunities to meet with senior executives from the schemes. However, it otherwise remains appropriate for the Board to receive its briefings from Bank staff who have consulted with a broad range of stakeholders and can present the full range of views of those stakeholders.

The Bank strives to maintain cooperative and collaborative relationships with all stakeholders, particularly regulated entities, though it recognises that there are times when the Bank's policy objectives conflict with an entity's commercial interests, which may strain these relationships.

3. Clearing and Settlement Facilities

The following section sets out the Reserve Bank's assessment under the Regulator Performance Framework of its activities in relation to the regulation of CS facilities. The assessment is based on the agreed metrics established in mid 2015 following consultation with CS facilities licenced in Australia, with one additional question added in response to feedback on the 2015/16 survey (Appendix 2).

For the purposes of the 2016/17 self assessment, the stakeholder group was comprised of ASX (on behalf of its four CS facilities), Chicago Mercantile Exchange (CME) and LCH Ltd. The responses to the CS facility survey aligned with feedback the Bank has received directly from each of the CS facilities.

3.1 Regulators do not unnecessarily impede the efficient operation of regulated entities

The metrics for this KPI relate to: alignment with international best practice; evidence of stakeholder consultation; the quality of the Bank's engagement with regulated entities; and stakeholders' assessment of the Bank's understanding of their operating environment.

As set out in the 2015/16 Report, to ensure the Bank does not unnecessarily impede the efficient operation of the CS facilities, the Bank's regulatory framework is closely aligned with international standards. The Bank has continued its active involvement in implementation monitoring exercises conducted by Committee on Payments and Market Infrastructures (CPMI) and International Organization of Securities Commissions (IOSCO); allowing the Bank to learn from other regulatory peers and contribute to assessments of other jurisdictions. This is in addition to its regular engagement with the home regulators of overseas CS facilities that are licenced in Australia.

Over the last year the Bank has also been involved in consultations with relevant stakeholders on competition in settlement of Australian cash equities.

All the CS facilities acknowledged that the Bank generally demonstrates a good understanding of the facilities' operating environment. However, one respondent continued to observe that the Bank may fail to consider jurisdictional differences. Nevertheless, it stated that the Bank had recalibrated somewhat the level of oversight to reflect the scale of participation of the facility in Australia.

The CS facilities generally recognised that the Bank had been effective in ensuring an open and timely exchange of information through both scheduled engagements and the management of emerging issues. Two of the CS facilities highlighted positive changes in their engagement with the Bank, following suggestions put forward in the 2015/16 survey. Specific improvements described by the respondents include greater transparency of the upcoming timeline of activities, flexibility in engagement timelines, opportunity to involve the appropriate resources to discuss strategic or operational matters, greater direct involvement of other domestic regulators and minimising duplication. The third respondent noted that the Bank's engagement with the CS facility remained effective.

3.1.1 Reserve Bank assessment

The Bank's regulatory framework for CS facilities is aligned with international best practice, and the Bank regularly engages with relevant overseas regulators to learn from peer experiences. The Bank's engagement with CS facilities is generally effective and has been enhanced by implementing a number of suggestions over the past year. The Bank intends to continue engaging with the CS facilities to ensure a continuous improvement in its approach to regulation.

3.2 Communications with regulated entities are clear, targeted and effective

The metrics for this KPI relate to: published standards and guidance material; consultation on any proposed changes to this material; and CS facilities' assessment of the clarity and timeliness of the Bank's bilateral communication.

All CS facilities responded positively with respect to the Bank's communication with them, describing it variously as clear, concise, timely, transparent and proactive. Indeed, a number of the respondents noted that the Bank has demonstrated receptiveness to feedback and a collaborative approach, improving the quality of bilateral communication. The CS facilities described the information the Bank publishes on its website as up-to-date, clear, accessible and comprehensive.

Survey respondents also welcomed the Bank's level of engagement with regards to relevant proposed changes to regulation of CS facilities. While there were no changes in the Bank's Financial Stability Standards (FSS) over 2016/17, the Bank committed to apply four pieces of additional guidance issued by CPMI and IOSCO in interpreting the PFMI.⁴ The CS facilities had the opportunity to provide feedback to CPMI and IOSCO as part of the consultative process at the international level. The Bank, as a member of CPMI, participated in reviewing the feedback. The Bank communicated its intention to apply the additional guidance both directly to the CS facilities and by updating its website. One respondent noted response times to these exercises can be tight especially when the request for information comes at the same time as the Bank's assessment of the CS facility. However, the respondent did recognise this was somewhat outside of the Bank's control.

3.2.1 Reserve Bank assessment

Both objective measures and feedback from regulated entities suggests that the Bank's communication with CS facilities is generally clear, targeted and effective. In particular, survey responses note the Bank's receptiveness to feedback and improvements in the quality of bilateral communication.

3.3 Actions undertaken by regulators are proportionate to the regulatory risk being managed

The metrics for this KPI relate to: the Bank's risk-based approach to regulating CS facilities; its engagement with regulated entities to inform them of expectations; and the CS facilities' feedback on the Bank's graduated approach.

4 The FSS are aligned with the requirements in the Principles for Financial Market Infrastructures (PFMI) that address matters relevant to financial stability.

CS facilities generally appreciated the graduated approach to oversight of licensed CS facilities adopted by the Bank. A common theme in this feedback remained support for greater deference to the home regulator of overseas CS facilities, proportionate to the risk profile of the overseas CS facility in the Australian financial system, and for minimising regulatory burden more generally.

Similar to the feedback received last year, one CS facility noted the latitude that the Bank has in determining its level of oversight of overseas CS facilities implies some uncertainty for the regulated CS facility as to its potential compliance obligations or triggers for additional oversight by the Bank. The CS facility implied that this discretion could be constrained by a greater level of prescription in the regulations.

Over the period, the Bank reviewed its approach to published assessments to provide further clarity regarding the Bank's priorities and expectations. Following this, the Bank assessment reports are now significantly shorter, decreasing the regulatory burden on CS facilities when reviewing these reports. While acknowledging the reduction in the amount of detail included in published reports as a positive development, one CS facility reiterated a suggestion that the Bank should make greater use of the flexibility it has, for example by conducting thematic reviews. This facility expressed concern that the scope of the annual assessment has continued to increase.

3.3.1 Reserve Bank assessment

The Bank acknowledges there is a degree of judgement in its approach to engagement with overseas CS facilities, but it seeks to provide clarity through its bilateral engagement with each CS facility. Over the last year, the Bank has also sought to clarify where it places reliance on foreign regulatory authorities in its published assessments. Currently, the focus of the Bank's supervision of the overseas CS facilities licensed in Australia is the complementary measures in the Australian regulatory framework, which are not covered in overseas regulatory regimes.

The Bank has also reviewed its approach to published assessments, resulting in significantly shorter and more targeted reports. In part this reflects the absence of material changes in overseas CS facilities' risk profiles in the Australian financial system.

3.4 Compliance and monitoring approaches are streamlined and coordinated

The metrics for this KPI relate to: coordination with other regulators and reporting arrangements for CS facilities.

The feedback on domestic cooperation remained unanimously positive, with one respondent noting that coordination between its two domestic regulators (the Bank and ASIC) has improved further in the past year. Coordination with and/or placing greater reliance on, overseas regulators was still seen as an area that could be improved.

One CS facility regarded the scope of data and reports requested by the Bank as appropriate, and was supportive of the cooperation arrangement letters stating that they provide certainty and clarity around all regular reporting and notification requirements. In line with feedback from last year, the Bank has also established a central point of contact to manage the relationship with each CS facility. The other respondents noted the significant scale of the Bank's information requests relative to either the past or other regulators' requests. One facility suggested ongoing engagement to achieve greater reliance on existing data content and formats, and reduce the need for ad-hoc solutions; it also

encouraged the Bank to pursue innovative IT solutions to support the exchange of large volumes of data and ensure secure access.

3.4.1 Reserve Bank assessment

The Bank now has cooperation arrangement letters in place with all CS facilities to ensure there is clarity on the scope and frequency of material the Bank requires on an ongoing basis, and will review and update them as required. It has also established a central point of contact for each CS facility. The Bank will continue to improve its coordination with overseas regulators and, in line with its policies, rely on information provided by the home regulator where possible. It is also considering options to facilitate the secure exchange of large volumes of information in the longer term.

3.5 Regulators are open and transparent in their dealings with regulated entities

All the CS facilities considered the Bank as open and transparent in its dealings with CS facilities. It was noted by one CS facility that in the past changes in personnel have occasionally led to an inconsistency in approach. This respondent encouraged holding training sessions, particularly when there are changes in personnel, to facilitate the Bank's understanding of the CS facility in a more structured way. Another respondent stated that, while the Bank's advice is consistent, it remains potentially incompatible with the regulatory, legal and market structure in the home jurisdiction of overseas CS facilities, which reduces the predictability of the application of regulation and policy.

3.5.1 Reserve Bank assessment

Both survey and non-survey metrics support the openness and transparency of the Bank's regulation of CS facilities. The Bank's recent work to provide significant continuity of staff in its oversight and supervision of FMI is reflected in the feedback that this is a past rather than current issue. Where there is turnover, the Bank is open to structured training sessions to facilitate new staff's understanding of CS facilities. In terms of the predictability of the application of regulation and policy to overseas CS facilities, the Bank continues to believe that this should evolve as the relationship between overseas CS facilities, their home regulator and the Bank matures.

3.6 Regulators actively contribute to the continuous improvement of regulatory frameworks

The metrics for this KPI relate to international policy development, engagement with CS facilities and reporting of stakeholder feedback to the Board.

As previously discussed, the Bank's regulatory framework is aligned with international standards, and the Bank continues to be actively engaged in the development of international policy. Survey respondents remained unanimous in describing their relationship with the Bank as cooperative and collaborative, and recognised ongoing efforts to strengthen it further. In 2016/17 the Bank held 25 regular meetings with CS facilities.

The Bank has again provided a draft of this report, setting out stakeholder feedback, to the Board.

3.6.1 Reserve Bank assessment

The Bank is an active contributor to international policy development. The Bank's openness to continuously improving its regulatory approach is underscored by the fact that the feedback provided in the survey responses was consistent with ongoing discussions with the CS facilities on how to improve the regulatory relationship.

Appendix 1: Retail Payment Systems Metrics

RPF KPIs	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
KPI 1 – Regulators do not unnecessarily impede the efficient operation of regulated entities	<p>Regulators demonstrate an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.</p> <p>Regulators take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains.</p> <p>Regulators implement continuous improvement strategies to reduce the costs of compliance for those they regulate.</p>	<p>Evidence of stakeholder consultation in development of any new regulations</p> <p>Demonstrated ongoing engagement with regulated entities and other stakeholders – including the Australian Payments Clearing Association, the Australian Payments Council and the Payments Consultation Group (of payments system end-users).</p>	<p>Rate the RBA's:</p> <p>understanding of the environment in which regulated entities operate</p> <p>awareness and understanding of emerging issues that affect the sector</p> <p>awareness of any unintended consequences of administering, monitoring and enforcing its regulation</p> <p>efforts to minimise compliance costs on regulated entities associated with its regulation.</p> <p>(defined scale, plus scope for free-form comments)</p> <p>Are there opportunities for the RBA to reduce unintended consequences of administering, monitoring and enforcing its regulation?</p> <p>Are there opportunities for the RBA to reduce the compliance costs associated with its regulation?</p>
KPI 2 – Communication with regulated entities is clear, targeted and effective	<p>Regulators provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience.</p> <p>Regulators consider the impact on regulated entities and engage with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards.</p> <p>Regulators' decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.</p> <p>Regulators' advice is consistent and supports predictable outcomes.</p>	<p>Publication of regulations and explanatory material</p> <p>Evidence of stakeholder consultation in development of any new regulations / changes to regulations</p>	<p>Rate:</p> <p>the RBA's engagement with stakeholders when developing or reviewing regulation</p> <p>the adequacy of the guidance and information the RBA provides to regulated entities on its regulation</p> <p>the RBA's responses to any of your requests for information or clarification on RBA regulation.</p> <p>(defined scale, plus scope for free-form comments)</p>

RPF KPIs	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
KPI 3 – Actions undertaken by regulators are proportionate to the regulatory risk being managed	<p>Regulators apply a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions.</p> <p>Regulators' preferred approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.</p> <p>Regulators recognise the compliance record of regulated entities, including using earned autonomy where this is appropriate. All available and relevant data on compliance, including evidence of relevant external verification is considered.</p>	<p>Regulations permit self-certification of compliance where appropriate.</p> <p>The number and type of enforcement actions undertaken.</p>	<p>Please estimate in person-hours the time spent in the last year demonstrating compliance (rather than complying) with RBA regulation (e.g. certification, provision of interchange data).</p> <p>Is there any scope for a more risk-based approach to compliance and monitoring activities?</p>
KPI 4 – Compliance and monitoring approaches are streamlined and coordinated	<p>Regulators' information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact.</p> <p>Regulators' frequency of information collection is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, information is only requested once.</p> <p>Regulators utilise existing information to limit the reliance on requests from regulated entities and share the information among other regulators, where possible.</p> <p>Regulators base monitoring and inspection approaches on risk and, where possible, take into account the circumstance and operational needs of the regulated entity.</p>	<p>Documented arrangements for policy co-ordination and information sharing between the RBA and the ACCC in relation to payment systems.</p>	<p>Rate:</p> <p>the reasonableness of data requested by the RBA – in terms of scope, frequency and timing</p> <p>the reasonableness of other, <i>ad hoc</i> information requests from the RBA – in terms of scope, frequency and timing.</p> <p>(defined scale, plus scope for free-form comments)</p> <p>Is there any scope to better align data requested by the RBA from you with data that you use internally?</p> <p>Is there scope for better alignment of data requirements or regulatory processes with other regulators?</p>
KPI 5 – Regulators are open and transparent in their dealings with regulated entities	<p>Regulators' risk-based frameworks are publicly available in a format which is clear, understandable and accessible.</p> <p>Regulators are open and responsive to requests from regulated entities regarding the operation of the regulatory framework, and approaches implemented by regulators.</p> <p>Regulators' performance measurement results are published in a timely manner to ensure accountability to the public.</p>	<p>Publication of regulatory objectives</p> <p>Publication of regulatory developments in Payments System Board (PSB) Annual Report</p> <p>Publication of summary of feedback in PSB Annual Report</p> <p>Publication of policies and reports complies with accessibility guidelines</p>	<p>Rate:</p> <p>the adequacy of the information that the RBA makes available publicly on its approach to regulation and regulatory framework</p> <p>the RBA's responsiveness to requests/queries regarding the operation of the regulatory framework.</p> <p>(defined scale, plus scope for free-form comments)</p>

RPF KPIs	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 6 – Regulators actively contribute to the continuous improvement of regulatory frameworks</p>	<p>Regulators establish cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.</p> <p>Regulators engage stakeholders in the development of options to reduce compliance costs. This could include industry self-regulation, changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches.</p> <p>Regulators regularly share feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative processes.</p>	<p>RBA engagement in domestic and international policy research on retail payments (qualitative)</p> <p>Engagement with regulated entities and other stakeholders – categorised by trigger for engagement (count).</p> <p>Reporting of stakeholder feedback to the PSB</p>	<p>Rate the RBA's efforts to establish and maintain cooperative and collaborative relationships with stakeholders.</p> <p>(defined scale, plus scope for free-form comments)</p> <p>Please comment on any other aspects of the administration, monitoring or enforcement of the RBA's regulation which you do not feel have been adequately covered in any of the questions above.</p>

Appendix 2: CS Facility Metrics

Key Performance Indicators	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 1 – Regulators do not unnecessarily impede the efficient operation of regulated entities</p>	<p>Regulators demonstrate an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.</p> <p>Regulators take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains.</p> <p>Regulators implement continuous improvement strategies to reduce the costs of compliance for those they regulate.</p>	<p>Is a regular review of compliance/regulatory approach conducted?</p> <p>Alignment with international best practice (e.g. results of PFMI responsibilities assessment for Australia)</p> <p>Evidence of stakeholder consultation in development of any new standards / changes to standards</p> <p>Demonstrated engagement with relevant international regulators (and, where relevant, other industry participants) to learn from peer experiences and share better practices</p>	<p>Are the RBA's regular scheduled engagements with the CS facility (e.g. scheduled operational and executive level meetings) an effective method of exchanging pertinent information with the RBA, including regarding compliance issues, without imposing unnecessary burden? How could their effectiveness be improved? Please consider the frequency and length of meetings, the appropriateness of the attendees, the agenda, the level of preparation.</p> <p>Are the RBA's engagements with the CS facility on emerging issues effective in ensuring there is an open and timely exchange of views and information? How could their effectiveness be improved? Please consider the timeliness of such engagements and the appropriateness of the attendees.</p> <p>Does the RBA demonstrate an understanding of the CS facility's operating environment? If not, please give examples.</p>

Key Performance Indicators	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 2 – Communication with regulated entities is clear, targeted and effective</p>	<p>Regulators provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience.</p> <p>Regulators consider the impact on regulated entities and engage with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards.</p> <p>Regulators' decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.</p> <p>Regulators' advice is consistent and supports predictable outcomes.</p>	<p>Publication of standards and guidance material (yes/no)</p> <p>Evidence of stakeholder consultation in development of any new standards / changes to standards</p>	<p>Has the RBA adequately consulted with the CS facility regarding all relevant proposed changes to its regulation of CS facilities? How could the RBA's consultation with CS facilities (e.g. consultation papers, consultation meetings) on policy development be improved? Please consider the clarity and timeliness of such engagements.</p> <p>Are the RBA's expectations, decisions and advice (including with respect to requests/queries regarding the operation of the regulatory framework) communicated in a clear and timely manner? How could the RBA's communication with the CS facility be improved?</p> <p>Are the RBA's published materials regarding its supervision of CS facilities (e.g. Financial Stability Standards, Assessments, consultations) up to date, clear, accessible and concise? If not, what improvements could be made?</p>
<p>KPI 3 – Actions undertaken by regulators are proportionate to the regulatory risk being managed</p>	<p>Regulators apply a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions.</p> <p>Regulators' preferred approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.</p> <p>Regulators recognise the compliance record of regulated entities, including using earned autonomy where this is appropriate. All available and relevant data on compliance, including evidence of relevant external verification is considered.</p>	<p>Application of graduated framework (& publication of that framework as set out in CFR appropriate influence policy and the FSS)</p> <p>Publicly available graduated approach to assessing CS facilities & frequency of assessments</p> <p>Demonstrated engagement with regulated entities to inform them of expectations by production of regulatory priorities & ability for regulated firms to provide feedback. (qualitative)</p>	<p>The Bank applies a graduated approach to oversight of licensed CS facilities, which is designed to be proportionate to the regulatory risk being managed. This approach is set out in the Bank's policy statement <i>Frequency and Scope of Regulatory Assessments of Licensed Clearing and Settlement Facilities</i> and the Council of Financial Regulators' policy statement <i>Ensuring Appropriate Influence for Australian Regulators over Cross-border Clearing and Settlement Facilities</i>. Are there other ways in which the Bank could be applying this graduated approach, that balance the regulatory impact on CS facilities while still meeting its oversight responsibilities and policy objectives?</p>

Key Performance Indicators	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 4 – Compliance and monitoring approaches are streamlined and coordinated</p>	<p>Regulators' information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact.</p> <p>Regulators' frequency of information collection is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, information is only requested once.</p> <p>Regulators utilise existing information to limit the reliance on requests from regulated entities and share the information among other regulators, where possible.</p> <p>Regulators base monitoring and inspection approaches on risk and, where possible, take into account the circumstance and operational needs of the regulated entity.</p>	<p>Coordination with overseas regulators re – data, assessments, reliance, prioritization of work (qualitative)</p> <p>Coordination with ASIC (qualitative)</p>	<p>Does the RBA appropriately coordinate regulatory requests and other regulatory engagement with other Australian regulators (including ASIC) where appropriate? How could such coordination be improved?</p> <p>Does the RBA appropriately coordinate regulatory requests and other regulatory engagement with the CS facility's home/primary regulator where appropriate (where relevant)? How could such coordination be improved?</p> <p>Is the scope of the regular data and reports required by the RBA appropriate? How could these reporting arrangements be improved? Please consider the extent to which required data and reports align with those generated for other purposes (e.g. internal risk management or disclosure to participants). Are the frequency and timing of regular reporting requirements and/or ad-hoc data requests appropriate?</p>
<p>KPI 5 – Regulators are open and transparent in their dealings with regulated entities</p>	<p>Regulators' risk-based frameworks are publicly available in a format which is clear, understandable and accessible.</p> <p>Regulators are open and responsive to requests from regulated entities regarding the operation of the regulatory framework, and approaches implemented by regulators.</p> <p>Regulators' performance measurement results are published in a timely manner to ensure accountability to the public.</p>	<p>Information published regarding approach to supervision (yes/no)</p> <p>Publication of assessment and summary of work in annual report (yes/no)</p> <p>Publication of summary of feedback in PSB Annual Report</p> <p>Publication of policies and reports complies with accessibility guidelines</p>	<p>Is the RBA open and transparent in its dealings with the CS facility? If not, please give examples.</p> <p>Is the RBA advice to the CS facility regarding the application of regulation or policy (e.g. including but not limited to the application of the Financial Stability Standards and the CFR's 'Appropriate Influence Policy') consistent and predictable? If not, please give examples.</p>

Key Performance Indicators	RPF Measures of Good Regulatory Performance	RBA non-survey metrics	RBA survey questions
<p>KPI 6 – Regulators actively contribute to the continuous improvement of regulatory frameworks.</p>	<p>Regulators establish cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.</p> <p>Regulators engage stakeholders in the development of options to reduce compliance costs. This could include industry self-regulation, changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches.</p> <p>Regulators regularly share feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative processes.</p>	<p>Alignment of regulatory framework with international principles (yes/no)</p> <p>RBA engagement in development of international policy (qualitative)</p> <p>Documented procedures are in place to allow active and regular engagement with CS facilities, as per published approach to assessing CS facilities (yes/no supported by quantitative details re number of regular quarterly/semi-annual meetings held with CS facilities)</p> <p>Reporting of stakeholder feedback to the PSB</p>	<p>Do you believe your relationship with the RBA is appropriately cooperative and collaborative? If not, how could this be improved?</p>

Appendix 3: Retail Payments Systems: Summary of Feedback

Table 1: Retail Payments Regulation
Range and Average Ratings on Numerical Key Performance Indicator (KPI) Metrics

KPI	Metric	Range ^(a) (out of 5)	Average ^(a) (out of 5)
Regulators do not unnecessarily impede the efficient operation of regulated entities	– understanding of the environment in which regulated entities operate	3–4	3.3
	– awareness and understanding of emerging issues that affect the sector	2–4	3.0
	– awareness of unintended consequences of administering, monitoring and enforcing regulation	2–2	2.0
	– efforts to minimise compliance costs on regulated entities associated with regulation	3–4	3.3
Communication with regulated entities is clear, targeted and effective	– engagement with stakeholders when developing or reviewing regulation	3–5	4.0
	– adequacy of the guidance and information provided to regulated entities on regulation	1–4	3.0
	– responses to requests for information or clarification on RBA regulation	1–5	3.7
Compliance and monitoring approaches are streamlined and coordinated	– reasonableness of data requested by the RBA – in scope, frequency and timing	3–5	4.0
	– the reasonableness of other, ad hoc information requests from the RBA – in scope, frequency and timing	3–4	3.5
Regulators are open and transparent in their dealings with regulated entities	– adequacy of the information that the RBA makes available publicly on its approach to regulation and regulatory framework	2–5	3.3
	– responsiveness to requests/queries regarding the operation of the regulatory framework	2–5	4.0
Regulators actively contribute to the continuous improvement of regulatory frameworks	– efforts to establish and maintain cooperative and collaborative relationships with stakeholders	2–5	4.0

(a) Ratings are from 1 to 5. Discussion in the body of this assessment treats 1 as 'very poor', 2 as 'poor', 3 as 'satisfactory', 4 as 'good', and 5 'very good'.

Appendix 4: Identified Actions in the 2015/16 Assessment

Retail Payment Systems

Identified action	Progress
Consider a more structured approach to identifying emerging issues	Ongoing; since the 2015/16 Assessment, the Bank has continued to engage with stakeholders and industry associations (both payments-related and specific to fintech).
During regulatory consultations, explicitly seek views on the two-to-three year effects of any regulatory change	Ongoing; in the Bank's consultation on dual-network cards and mobile wallet technology in late 2016, the Bank sought views from stakeholders on prospective developments in payment card technology.
Investigate the potential for greater use of standardised electronic approaches to consultation and certification of compliance	Ongoing; the Bank will continue to assess whether an electronic approach is appropriate for consultation and certification of compliance on a case-by-case basis.
Make greater use of 'plain-English' in communications	Ongoing; the Bank has made a commitment to using plain-English in its communications; where this is not possible, the Bank has provided guidance in plain-English (for example, the standards on merchant pricing and interchange fees are accompanied by a plain-English Q&A).
Consider a more structured process for determining when a shorter consultation is appropriate	Ongoing; the Bank will continue to assess whether a shorter consultation process is appropriate on a case-by-case basis.
Consult with regulated entities when making future information requests to ensure that both requests and timeframes are reasonable	Ongoing; the Bank considers both the complexity and nature of a request when determining a timeframe for response; where an entity requires additional time to respond, the Bank makes every effort to be accommodative.

Clearing and Settlement Facilities

Identified action	Progress
Review the annual assessment process with a view to minimising the burden on regulated entities without compromising the benefits of disclosure	Ongoing. The Bank reviewed its approach to published assessments to provide further clarity regarding the Bank's priorities and expectations. Following this, the Bank assessment reports are now significantly shorter, decreasing the regulatory burden on CS facilities when reviewing these reports.
Continue to improve coordination with overseas regulators and give further consideration to the scope for greater reliance on foreign regulatory authorities	Ongoing. The Bank has also sought to clarify where it places reliance on foreign regulatory authorities, which has been reflected in its published assessments of overseas CS facilities.
Consult with stakeholders on additional questions for the survey to be used in 2017 in relation to KPI 3 (actions undertaken by regulators are proportionate to the regulatory risk being managed)	Completed. A new question has been added.
Continue to explore ways to ensure consistency in the regulatory approach	Ongoing. The Bank works hard to provide significant continuity of staff in FMI oversight, including structuring roles in order to have greater overlapping responsibility between management to minimise key person risk.