



12 July 2013

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

Via email: pysubmissions@rba.gov.au

Dear Dr Richards

REVIEW OF CARD SYSTEM ACCESS REGIMES: VISA'S RESPONSE

Visa welcomes the opportunity to lodge this submission to the Reserve Bank of Australia (RBA) 'Review of Card System Access Regimes' Consultation Document (Consultation Paper) dated May 2013.

Visa Inc. is the world's largest retail electronic payments network, with US\$6.5 trillion transacted on our payment products over the 12 months ending 31 March 2013. Visa connects consumers, businesses, financial institutions and governments in more than 200 countries and territories to fast, secure and reliable electronic payments.

We operate one of the world's most advanced processing networks—VisaNet—that is capable of handling more than 24,000 transaction messages a second, with fraud protection for consumers and assured payment for merchants.

Visa is not a bank and does not issue cards, extend credit or set rates and fees for consumers. Visa's innovations, however, enable its financial institution customers to offer consumers more choices: pay now with debit, ahead of time with prepaid or later with credit products.

Visa's global network spans:

- 14,800 financial institution customers
- 2.0 million ATMs (as of December 31, 2012)
- 200 countries and territories
- 2.1 billion Visa cards (as of December 31, 2012)

Visa strongly supports robust and fair competition in retail electronic payments. At the same time, we also support a retail payments system that is stable and in which risk is appropriately managed.

It is within this context that Visa submits our view that the circumstances that drove the regulatory decision to put in place the Access Regime for the Visa Debit system and the Visa Credit system (Access Regimes) have now changed.

Equally, it appears that the benchmark requirements for an applicant to gain access to the class of related regulated entities created by the Australian Prudential Regulatory Authority (APRA), namely a Specialised Credit Card Institution (SCCI), also needs evaluation. We submit that the combined effect of the current Access Regimes and SCCI class may be acting as an unintended inhibitor of competition in electronic payments in Australia.

As such we feel there is now an opportunity to (i) revoke the Access Regimes, but (ii) maintain a minimum publicly-set regulatory requirement to be involved in the retail card payment business, but assess and likely lower that benchmark to ensure it is not negatively impacting potential competition in light of contemporary approaches utilised by schemes such as Visa. We feel it is necessary to take both of these steps as the removal of the Access Regimes in and of themselves may not necessarily foster additional competition without addressing the level of the benchmark standard created by the APRA SCCI class.

In short, Visa supports a hybrid reform based on Option 1 in the Consultation Paper (varying the Access Regimes to widen eligibility for participation) and Option 2 (revoking the Access Regime). This would enhance competition whilst maintaining an appropriate screening and monitoring role of proposed new entrants into card systems for APRA, although possible against new lower minimum standards. Visa does not support Option 3 in the Consultation Paper which is to maintain the status quo.

The latter step could be achieved in one of several ways, whether through lowering the current SCCI benchmark, widening the entity-type access criteria beyond the SCCI class or delinking access from any specific entity type and using business activity. Visa is agnostic about which of the latter means are deployed, as long as a minimum publicly-set and overseen regulatory standard is maintained, thereby supporting a strong commitment to stable retail card payment system in which risk is appropriately managed. We would be happy to work with the RBA and APRA on the content of such a standard.

Please do not hesitate to contact Ms Kristen Foster, Director of Government Relations, Australia, New Zealand and South Pacific (krfoster@visa.com) for further information regarding Visa's position.

Visa very much looks forward to ongoing dialogue and additional consultation with the RBA on this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Vipin Kalra', written in a cursive style.

Vipin Kalra
Country Manager
Australia



Submission to Review of Access Regimes

July 2013



General

Visa welcomes the RBA's inquiry regarding whether its Access Regimes should be broadened or revoked and its statement that *"it has become clear from recent developments, however, that the access regimes in their current form may no longer be fulfilling their original objective. Indeed, they may now be preventing prospective scheme participants from entry. The Reserve Bank is now considering whether changes to these regimes may be appropriate"*.

We welcome the RBA's query as to whether new entrants may currently be being prevented from entry into the market by the existing regime and whether high barriers to entry are affecting market competition and new innovation and products.

Visa strongly supports robust and fair competition in retail electronic payments and agrees that competition on a regulatory level playing-field encourages innovation, investment and the best consumer outcomes. At the same time, we also support a retail payments system that is stable and in which risk is appropriately managed.

We pride ourselves on establishing an approach to membership of Visa that balances these two important priorities. Equally we support regulatory settings that are created with the same priorities in mind.

Visa Membership

As is widely known, prior to the restructuring and Initial Public Offering (IPO) of Visa Inc stock in 2008, Visa was a membership-based association of financial institutions. Since our restructuring and IPO, much has changed. Whilst Visa continues to be a membership-based system of rules that govern access to and action within the Visa scheme, Visa's policies on a range of matters have naturally evolved, including on scheme membership. For example, Visa has enhanced our approach to the assessment of membership for non-financial institutions thereby facilitating competition, of course whilst maintaining our commitment to risk management and stability.

Importantly, we achieve the maintenance of best practice risk management and system stability through our own robust membership criteria, both for financial institution (FI) and non-financial institutions (Non-FI). These criteria importantly link membership eligibility to the minimum publicly-set regulatory requirement to be involved in the retail card payment business, where domestic regulation exists. In the case of Australia this means a FI having APRA-approved Authorised Deposit-Taking Institution (ADI) status or a Non-FI having APRA-approved SCCI status.

In addition, Visa will always also satisfy itself of several key other minimum criteria requirements, including but limited to:

- the financial condition of the applicant with a focus on managing credit settlement risk issues;
- matters of operational and security risk including the experience and background of the management, governance arrangements in place, the ability to comply with Visa rules and the capability to deliver comprehensive security and control over fraud;
- Anti-Money Laundering and United States Office of Foreign Assets Control (OFAC) assessments;
- the legal authority of the applicant, including whether granting a direct license would create unacceptable legal or regulatory risk to the applicant or Visa and (as captured above) whether the applicant satisfies any/all applicable local legal and regulatory requirements to conduct the desired payments business.

Globally, Visa has admitted Non-FI's as members under such due diligence processes.

Access Regimes

As outlined, Visa supports the removal of the Access Regimes as we feel the circumstances that drove the regulatory decision to put them in place, or for Visa to request they be put in place (in relation to Visa Debit), have now fundamentally changed.

The original purpose of the Access Regimes, as set out in the Consultation Paper and many RBA publications released in the early 2000's, was to improve competition and foster efficiency in the provision of card payment services. As such they require schemes to not discriminate between types of ADIs, including SCCIs, when assessing applications for membership, prohibit schemes from preventing a participant from being an issuer only, an acquirer only, or both an issuer and acquirer. They do however continue to allow schemes to assess applicants for admission, subject to the Access Regimes content.

Visa submits that achieving these policy outcomes via the imposition of the Access Regimes is no longer necessary in Australia as, even in the absence of the Access Regimes, Visa's approach to membership now accommodates each of these expectations.

In relation to the options put forward by the RBA of how scheme criteria for membership assessment could be communicated to the RBA, Visa proposes that schemes be free to set these options based on their own strategy and risk management policies. If assurance was felt needed on the content of these criteria, the RBA could exercise the additional option raised of requiring a confidential voluntary undertaking from relevant schemes, made to the RBA, setting out these criteria.

Recommendation: Revoke the Access Regimes.

Specialised Credit Card Institutions

Maintain a publicly managed regulatory gateway

It is however important to note that the removal of the Access Regimes in and of themselves may not necessarily foster additional competition. By linking the Access Regimes to the level of the benchmark standard created by the APRA SCCI class, addressing both sides of the ledger become necessary.

First however, we wish to repeat our strong preference that some form of minimum publicly-set and overseen regulatory standard to be involved in the retail card payment business, is maintained. We feel this is best continued to be managed by APRA. We do not support the proposal that all public regulatory involvement in assessing potential participants in the retail card payments business in Australia be removed and handed solely to schemes. Whilst Visa has, as outlined, a strong commitment to robust risk management and system stability – and a set of rules and policies to match that commitment – we feel the maintenance of some degree of public oversight is imperative. We submit that we are not a regulatory authority and that therefore APRA must maintain a minimum role in initial screening of new entrants into the retail card payment system.

Assess current setting of gateway minimum

With the above in mind, we do support the assessment, and likely lowering, of that APRA “gateway” benchmark. This would be to ensure it is not prohibitively set so as to negatively impact potential market competition in light of contemporary approaches to membership utilised by schemes such as Visa.

For example, if the impact on competition of the Access Regimes and, more specifically, the SCCI benchmark, was to be assessed in terms of additional new Visa members over the last decade (noting this is not the only, or even key variable of competition), at least quantitatively, the approach has not had a major membership impact. Since 2003 only two SCCIs have been approved by APRA, namely GE Capital Finance Australia (issuing) and Tyro Payments (acquiring). This is a small number in comparison to the 15 to 20 direct issuers and acquirers that the RBA notes in the Consultation Paper that Visa and MasterCard already work with in Australia.

The Access Regime/SCCI combination may well have limited the number of members gaining membership.

We feel it is ultimately a matter for APRA to determine how a re-setting of the gateway could be best achieved. We note the Consultation Paper states that this could occur through (i) lowering the current SCCI benchmark (creating a SCCI-lite class), (ii) widening the entity-type access criteria beyond the SCCI (or SCCI-lite) class of entities, or (iii) delinking access from any specific entity type and using business activity as the assessment criteria.

Visa is largely agnostic about which of the means are deployed, although we feel sub-options (i) and (ii) (linkage to an entity type) likely remains the stronger approach on balance.

The key issue though is the maintenance of a minimum publicly-set and overseen regulatory standard, thereby supporting a strong commitment to stable retail card payment system in which risk is appropriately managed. As mentioned above however, Visa wants to ensure that any such broadening of the current access regime is prudent and that entities entering into the market are of “sound financial standing” and meet certain standards as defined by the regulator. This is consistent with the views expressed in the Joint Study by the RBA and Australian Competition and Consumer Commission in 2000. Ultimately, settlement disruptions or financial instability of new entrants would not be in either consumers’ interests or the overall interests of the Australian payments system.

Visa would be happy to work with the RBA and APRA on the content of such a standard. As outlined, Visa maintains commercial criteria for FI and Non-FI membership assessment which could be helpful in this process.

Recommendation: maintain a minimum publicly-set regulatory requirement to be involved in the retail card payment business, but assess and likely lower that benchmark to ensure it is not negatively impacting potential competition in light of contemporary approaches to membership utilised by schemes such as Visa.

Conclusion

In summary, Visa supports a hybrid reform based on Option 1 in the Consultation Paper (varying the Access Regimes to widen eligibility for participation) and Option 2 (revoking the Access Regime). This would enhance competition whilst maintaining an appropriate screening and monitoring role of proposed new entrants into card systems for APRA, although possible against new lower minimum standards. Visa does not support Option 3 in the Consultation Paper which is to maintain the status quo.

Finally, as previously mentioned Visa welcomes the opportunity to lodge this short submission regarding the future of the Access Regimes in Australia. We submit that

amendments are required to the current regime and that maintaining the status quo is not an option.

