



RESERVE BANK OF AUSTRALIA

Payment Systems (Regulation) Act 1998

Access Regime for the designated ATM payment system

This notice is published in accordance with the requirements set out in Section 29(2)(a) of the *Payment Systems (Regulation) Act 1998* (the Act).

The Reserve Bank of Australia imposes, in accordance with Section 12 of the Act, the attached Access Regime to be complied with by the participants in the designated ATM payment system.

Summary of purpose and effect of the Access Regime

The purpose of the Access Regime is to improve competition and efficiency in the ATM system, including through improved arrangements for new participants to gain access to the ATM system. The Access Regime will operate in conjunction with an ATM Access Code developed by the Australian Payments Clearing Association (APCA), which is available at www.atmaccesscode.com.au.

The Access Regime addresses two issues that are not dealt with in APCA's Access Code. The first is the price that incumbents may charge access seekers to directly participate in the ATM system. The second is the potential for interchange fees to be used as a barrier to entry to the system.

In relation to the first issue, the Access Regime has two effects. The first is to cap the access charge that can be levied for establishing a new direct connection at \$76 700 – the lowest estimated cost of implementing such a connection obtained from a survey of ATM connection costs. The second effect of the Access Regime is that no charge may be levied for establishing a direct clearing/settlement service. The Bank views clearing and settlement as fundamental banking business and, provided financial institutions meet appropriate objective prudential standards, they should have the right to clear and settle with other financial institutions, with each institution meeting its own costs.

In relation to interchange fees, the effect of the Access Regime is that no interchange fees may be paid between participants in the ATM system, except in two sets of circumstances. The first is where the interchange fee is paid in respect of a one-way arrangement – where a card issuer pays a fee to an ATM owner to allow its customers access to those ATMs, but reciprocal arrangements do not apply. An issuer can have only one such arrangement in place and, if it does, should not also receive a bilateral fee under a one-way arrangement. The second exception is where the interchange fee

is the common fee paid between members of an ATM sub-network. An ATM sub-network is a component of the ATM system for which access is provided on a multilateral basis, rather than by bilateral negotiation, and for which there is a common, multilateral interchange fee. The Reserve Bank considers that these exceptions will benefit competition by allowing smaller institutions to provide fee-free access to a larger network of ATMs than they could provide themselves. The Access Regime also allows the Reserve Bank to exempt a participant from some or all requirements of the interchange fee provisions if considered appropriate having regard to the Bank's obligations under the Act.

The Access Regime and related industry reforms are expected, over time, to result in a number of benefits. In particular, the reforms will: make the cost of cash withdrawals more transparent to cardholders and strengthen competitive forces on ATM fees; help ensure that there is continued widespread availability of ATMs; and make access less complicated for new entrants and therefore strengthen competition.

Signed



Glenn Stevens
Governor
Reserve Bank of Australia

Date 23 February 2009

Attachment

Access Regime for the ATM System

Objective

The objective of this Access Regime is to promote competition and efficiency in the Australian payments system, having regard to:

- (i) the interests of current participants in the ATM system;*
- (ii) the interests of people who, in the future, may want access to the ATM system;*
- (iii) the public interest; and*
- (iv) the financial stability of the ATM 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 payment system operated within Australia known as the ATM system, which was designated as a payment system on 10 December 2008 and referred to below as the ATM system.

3. In this Access Regime:

‘Access Provider’ has the same meaning as in the ATM Access Code;

‘Access Seeker’ has the same meaning as in the ATM Access Code;

‘APCA’ means the Australian Payments Clearing Association Limited (ABN 12 055 136 519);

‘APCA’s 2008 costs survey’ is the survey, conducted by APCA, of the estimated incremental direct costs to Access Providers of providing to an Access Seeker a Direct Connection Service or a Direct Clearing/Settlement Service, the final results of which were supplied to the Reserve Bank of Australia in November 2008;

an ‘ATM’ means an automatic teller machine in Australia;

an ‘ATM Acquirer’ has the same meaning as in the ATM Access Code;

‘ATM Access Code’ means the ATM Access Code adopted by ATM Access Australia Limited (ABN 53 130 571 103) on 23 February 2009 to commence on 3 March 2009, and as varied from time to time;

an ‘ATM Issuer’ has the same meaning as in the ATM Access Code;

an ‘ATM sub-network’ is a component of the ATM system for which access is provided on a multilateral basis, rather than by bilateral negotiation, and for which there is a common, multilateral interchange fee;

‘ATM transaction’ means a cash withdrawal, balance enquiry, or any other service obtained from an ATM in the ATM system in Australia;

‘Connection Agreement’ has the same meaning as in the ATM Access Code;

‘Connection Charge’ means the charge payable by an Access Seeker to an Access Provider under a Connection Agreement as described in Clause 3 of Schedule 3 of the ATM Access Code;

‘Direct Clearing/Settlement Service’ has the same meaning as in the ATM Access Code;

‘Direct Connection Service’ has the same meaning as in the ATM Access Code;

‘Direct Connector’ means a participant that exchanges ATM transaction messages, and clears and settles ATM transactions using two or more direct connections;

an ‘interchange fee’ is a wholesale fee which is payable by an ATM Issuer to an ATM Acquirer when a cardholder of the ATM Issuer undertakes an ATM transaction that is acquired by the ATM Acquirer;

a ‘one-way arrangement’ is an access arrangement whereby an ATM Issuer pays an interchange fee to an ATM Acquirer for use of an ATM by a cardholder, but that same ATM Acquirer does not pay an interchange fee to access any ATMs of the ATM Issuer in the arrangement;

terms defined in the *Payment Systems (Regulation) Act 1998* have the same meaning in this Access Regime.

4. Each participant in the ATM system 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 3 March 2009.

Price of access

Connection Charge for providing the Direct Connection Service

8. The Connection Charge levied by an Access Provider for providing the Direct Connection Service to an Access Seeker must not exceed the Direct Connection Cap, calculated in accordance with paragraph 9 below, applying on the date the Connection Agreement is entered into.
9. From 3 March 2009, the Direct Connection Cap for the Connection Charge in the ATM system is the lowest estimated cost for providing a Direct Connection Service as measured in APCA’s 2008 costs survey. This cost is \$76 700 (excluding GST).

Connection Charge for providing the Direct Clearing/Settlement Service

10. From 3 March 2009, no charge may be levied between participants in the ATM system for providing the Direct Clearing/Settlement Service.

Interchange fees

11. From 3 March 2009, no interchange fee shall be paid between participants in the ATM system in relation to any ATM transaction, unless the interchange fee is being paid by:

- (i) a participant with a one-way arrangement to access one, and only one, other participant's ATMs and the fee is paid in respect of this arrangement; or
- (ii) a participant that is a member of an ATM sub-network and the fee is the common interchange fee payable between the members of the sub-network, and the fee is paid to another member of that sub-network.

12. A participant that pays an interchange fee in a one-way arrangement cannot receive an interchange fee from any other participant in the ATM system unless both those participants are members of an ATM sub-network and the interchange fee is the common interchange fee payable between members of the sub-network.

Transparency

13. Each ATM Acquirer in the ATM system that receives an interchange fee within the terms of sub-paragraph 11(i) must report that arrangement to the Reserve Bank of Australia no later than 3 April 2009 for existing arrangements or within thirty days of the date the arrangement is entered into for new arrangements.

14. The administrator of an ATM sub-network or a representative of the participants in an ATM sub-network must publish the multilateral interchange fee of the sub-network on the administrator's website or on a representative of the participants' website, or make the multilateral interchange fee generally available through other means.

15. The administrator of an ATM sub-network must publish the rules that govern access to the sub-network.

Exemptions from paragraph 11 of this Regime

16. The Reserve Bank may grant an exemption to a participant in the ATM system from any or all of the requirements of paragraph 11 where it is satisfied that the exemption is appropriate, having regard to:

- (a) whether granting the exemption would be in the public interest;
- (b) the interests of current participants in the system;
- (c) the interests of people who, in the future, may want access to the system; and
- (d) any other matters the Reserve Bank considers relevant.

17. Where the Reserve Bank grants an exemption it will publish notice on its website that an exemption has been granted, the nature of the exemption and the identity of the participant(s) involved.