



RESERVE BANK OF AUSTRALIA

*Payment Systems (Regulation) Act 1998*

**Notification of Variation to the Access Regimes for MasterCard and Visa Credit Card Systems**

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

The Reserve Bank of Australia gives notice that it has, pursuant to subsection 14(1) of the Act, varied:

- I. the *Access Regime for the MasterCard credit card system*, originally gazetted on 23 February 2004 as set out in Attachment A to this notice; and
  - II. the *Access Regime for the VISA credit card system*, originally gazetted on 23 February 2004 as set out in Attachment B to this notice,
- in each case, with effect from 1 January 2015.

**Purpose and effect of the variation**

The purpose of this variation to the *Access Regime for the MasterCard credit card system* and the *Access Regime for the Visa credit card system* (together, the Access Regimes) is to provide MasterCard and Visa with greater flexibility to expand the membership of their respective schemes beyond existing participants. The existing access framework, implemented in 2004 and 2005, allowed new entrants that would otherwise have been ineligible for membership to participate in the card schemes without compromising the financial safety of the schemes. This coincided with the establishment of the specialist credit card institution (SCCI) as a new class of authorised deposit-taking institution (ADI). However, recent developments suggest that the Access Regimes in their current form may no longer be fulfilling their original objective and may be preventing some prospective scheme participants from entry.

The main effect of the variation to the Access Regimes is to provide MasterCard and Visa with the ability to make entities other than ADIs eligible to participate in their respective schemes. Each of the varied Access Regimes specifies that ADIs and entities that were SCCIs as at 31 December 2014 ('former SCCIs') will be eligible to participate in the relevant scheme. Under the varied Access Regimes, each scheme will have the ability to establish eligibility criteria for entities other than ADIs and former SCCIs and any of those entities will be eligible to participate in the relevant scheme provided they meet any eligibility criteria established by the scheme. MasterCard and Visa must establish and apply criteria to assess applications from eligible applicants for participation in their respective systems. Each scheme must also publish its eligibility and assessment criteria on its website.

Signed

Glenn Stevens  
Governor  
Reserve Bank of Australia  
15 December 2014

## **Attachment A – Variation of the MasterCard Access Regime**

### **1. Heading entitled “Access Regime”**

After “Access Regime”, insert “for the MasterCard Credit Card System”.

### **2. Paragraph 2**

After “*Payment Systems (Regulation) Act 1998*”, delete “and” and insert “which is”.

After “referred to”, delete “as follows” and insert “in this Access Regime”.

### **3. Paragraph 3**

After the definition of “credit card”, insert:

a “former specialist credit card institution” is an entity which, as at 31 December 2014, was an authorised deposit-taking institution that engaged in credit card issuing, credit card acquiring or both (within the meaning of Regulation 4 of the *Banking Regulations 1966*) and which did not otherwise conduct banking business within the meaning of section 5 of the *Banking Act 1959*;

After “a “specialist credit card institution” is”, insert “: (a)” and after “*Banking Act 1959*”, insert “or (b) a former specialist credit card institution;”.

After “terms defined”, insert “or having a meaning” and delete “*Payments*” and insert “*Payment*”.

### **4. Paragraph 6**

Delete the first bullet point and substitute “(a)”.

Delete the second bullet point and substitute “(b)”.

### **5. Paragraph 7**

After “This Access Regime”, delete “comes” and insert “originally came”.

After “23 February 2004.”, insert “This Access Regime as amended comes into force on 1 January 2015.”

### **6. Heading entitled “Eligibility for participation”**

Delete “for participation” and insert “to apply to participate in the Scheme”.

### **7. Paragraph 8**

After “Any”, delete “person who is an” and after “deposit-taking institution”, insert “or former specialist credit card institution”.

Delete “Subject to paragraph 9, any criteria may be applied by the Scheme in assessing applications for participation in the Scheme in Australia.”

### **8. New paragraphs 9, 10 and 11**

After paragraph 8, insert:

9. The administrator of the Scheme may establish (through the rules of the Scheme or otherwise) any criteria for eligibility to apply to participate in the Scheme in Australia in respect of entities other than authorised deposit-taking institutions and former specialist credit card institutions (“eligibility criteria”), provided these eligibility criteria are reasonably related to the risks to the Scheme or its participants, merchants or cardholders that are likely to arise from the participation. If eligibility criteria are established they must be applied by the administrator of the Scheme in accordance with their terms.
10. Any entity, other than an authorised deposit-taking institution or former specialist credit card institution, is eligible to apply to participate in the Scheme in Australia, provided the entity meets any eligibility criteria.

#### **Assessment of applications to participate in the Scheme and terms of participation**

11. Subject to paragraphs 12 and 13, the administrator of the Scheme must establish (through the rules of the Scheme or otherwise) and apply criteria for assessing

applications for participation in the Scheme in Australia by eligible applicants (“assessment criteria”).

#### **9. Paragraph 9**

Renumber as paragraph 12.

After “Neither the rules of the”, delete “Scheme nor any participant in the Scheme” and insert “Scheme, nor the administrator of or any participant in the Scheme,”.

After “a class and”, delete “other”.

After “deposit-taking institutions”, insert “other than specialist credit card institutions”.

After “as a class in”, delete “relation to any of the criteria applied in assessing applications for participation” and insert “establishing or applying assessment criteria”.

After “Scheme in Australia”, insert:

, except to the extent reasonably required to assess and address the risks to the Scheme or its participants, merchants or cardholders arising, or likely to arise, from the participation of the class of entity in the scheme in Australia.

13. Without limiting paragraph 12, neither the rules of the Scheme, nor the administrator of or any participant in the Scheme, shall discriminate against an entity (or class of entity) in establishing or applying assessment criteria or in relation to the rights and obligations of participants in the Scheme in Australia, except to the extent reasonably required to assess and address the risks to the Scheme or its participants, merchants or cardholders arising, or likely to arise, from the participation of the entity (or class of entity) in the Scheme in Australia.

#### **10. Heading entitled “Terms of participation”**

Delete entire heading.

#### **11. Paragraph 10**

Renumber as paragraph 14.

Delete paragraph numbering “(i)”, “(ii)” and “(iii)” and substitute “(a)”, “(b)” and “(c)” respectively.

#### **12. Paragraphs 11 and 12**

Renumber as paragraphs 15 and 16.

#### **13. Heading entitled “Transparency”**

After “Transparency”, insert “and assessment of applications”.

#### **14. Paragraph 13**

Renumber as paragraph 17.

After “of the Scheme”, delete “or a representative of the participants in the Scheme in Australia.

After “must”, insert “continuously”.

After “publish”, delete “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 within three months after this Access Regime comes into force” and insert:

on the Scheme’s website:

- (a) any eligibility criteria and the risks that the eligibility criteria seek to address;
- (b) the assessment criteria and the risks that the assessment criteria seek to address; and
- (c) the maximum time it will take to assess any application to participate in the Scheme in Australia before terms of participation will be proposed to the applicant or a decision on the application will be made.

## 15. Paragraph 14

Renumber as paragraph 18.

After “must provide to”, substitute “a person” with “an entity”.

After “the application before”, insert “terms of participation will be proposed to the applicant or”.

Renumber the last sentence as a new paragraph 19 and after “The administrator”, insert “of the Scheme”.

## 16. Paragraph 15

Renumber as paragraph 20.

After “must provide to”, substitute “a person” with “an entity”.

After the end of paragraph 15 (renumbered as paragraph 20), insert:

### **Certification and reporting**

21. The administrator of the Scheme must provide to the Reserve Bank on or before 31 July each year a certificate:

- (a) certifying, in respect of the twelve-month period ending on 30 June of that same year (the “reporting period”), that:
  - (i) at all times during the reporting period the eligibility criteria and the assessment criteria were in compliance with this Access Regime;
  - (ii) any applicant admitted to the Scheme during the reporting period met, at the time of admission, all risk-related eligibility and assessment criteria; and
  - (iii) at all times during the reporting period it has otherwise complied with this Access Regime; and
- (b) listing all entities whose application to participate in the Scheme in Australia was either made during the reporting period or outstanding at the commencement of the reporting period and details for each entity (as applicable) of:
  - (i) the date on which the application was made;
  - (ii) the outcome of the application;
  - (iii) the date(s) on which any proposal of terms of participation or conditional approval was communicated by the administrator of the Scheme to the applicant, the date on which the final decision on the application was communicated to the applicant and, if the final decision was to admit the applicant to the Scheme, the date on which the applicant was admitted to the Scheme; and
  - (iv) where the application was rejected, the reasons the application was rejected; and
- (c) listing all entities who ceased to be participants in the Scheme in Australia during the reporting period and providing details of the reasons these entities ceased to be participants to the extent known by the administrator of the Scheme.

## **Attachment B – Variation of the Visa Access Regime**

### **1. Heading entitled “Access Regime”**

After “Access Regime”, insert “for the VISA Credit Card System”.

### **2. Paragraph 2**

After “*Payment Systems (Regulation) Act 1998*,”, delete “and” and insert “which is”.

After “referred to”, delete “as follows” and insert “in this Access Regime”.

### **3. Paragraph 3**

After the definition of “credit card”, insert:

a “former specialist credit card institution” is an entity which, as at 31 December 2014, was an authorised deposit-taking institution that engaged in credit card issuing, credit card acquiring or both (within the meaning of Regulation 4 of the *Banking Regulations 1966*) and which did not otherwise conduct banking business within the meaning of section 5 of the *Banking Act 1959*;

After “a “specialist credit card institution” is”, insert “: (a)” and after “*Banking Act 1959*,”, insert “or (b) a former specialist credit card institution;”.

After “terms defined”, insert “or having a meaning” and delete “*Payments*” and insert “*Payment*”.

### **4. Paragraph 6**

Delete the first bullet point and substitute “(a)”.

Delete the second bullet point and substitute “(b)”.

### **5. Paragraph 7**

After “This Access Regime”, delete “comes” and insert “originally came”.

After “23 February 2004.”, insert “This Access Regime as amended comes into force on 1 January 2015.”

### **6. Heading entitled “Eligibility for participation”**

Delete “for participation” and insert “to apply to participate in the Scheme”.

### **7. Paragraph 8**

After “Any”, delete “person who is an” and after “deposit-taking institution”, insert “or former specialist credit card institution”.

Delete “Subject to paragraph 9, any criteria may be applied by the Scheme in assessing applications for participation in the Scheme in Australia.”

### **8. New paragraphs 9, 10 and 11**

After paragraph 8, insert:

9. The administrator of the Scheme may establish (through the rules of the Scheme or otherwise) any criteria for eligibility to apply to participate in the Scheme in Australia in respect of entities other than authorised deposit-taking institutions and former specialist credit card institutions (“eligibility criteria”), provided these eligibility criteria are reasonably related to the risks to the Scheme or its participants, merchants or cardholders that are likely to arise from the participation. If eligibility criteria are established they must be applied by the administrator of the Scheme in accordance with their terms.
10. Any entity, other than an authorised deposit-taking institution or former specialist credit card institution, is eligible to apply to participate in the Scheme in Australia, provided the entity meets any eligibility criteria.

#### **Assessment of applications to participate in the Scheme and terms of participation**

11. Subject to paragraphs 12 and 13, the administrator of the Scheme must establish (through the rules of the Scheme or otherwise) and apply criteria for assessing

applications for participation in the Scheme in Australia by eligible applicants (“assessment criteria”).

#### **9. Paragraph 9**

Renumber as paragraph 12.

After “Neither the rules of the”, delete “Scheme nor any participant in the Scheme” and insert “Scheme, nor the administrator of or any participant in the Scheme,”.

After “a class and”, delete “other”.

After “deposit-taking institutions”, insert “other than specialist credit card institutions”.

After “as a class in”, delete “relation to any of the criteria applied in assessing applications for participation” and insert “establishing or applying assessment criteria”.

After “Scheme in Australia”, insert:

, except to the extent reasonably required to assess and address the risks to the Scheme or its participants, merchants or cardholders arising, or likely to arise, from the participation of the class of entity in the scheme in Australia.

13. Without limiting paragraph 12, neither the rules of the Scheme, nor the administrator of or any participant in the Scheme, shall discriminate against an entity (or class of entity) in establishing or applying assessment criteria or in relation to the rights and obligations of participants in the Scheme in Australia, except to the extent reasonably required to assess and address the risks to the Scheme or its participants, merchants or cardholders arising, or likely to arise, from the participation of the entity (or class of entity) in the Scheme in Australia.

#### **10. Heading entitled “Terms of participation”**

Delete entire heading.

#### **11. Paragraph 10**

Renumber as paragraph 14.

Delete paragraph numbering “(i)”, “(ii)” and “(iii)” and substitute “(a)”, “(b)” and “(c)” respectively.

#### **12. Paragraphs 11 and 12**

Renumber as paragraphs 15 and 16.

#### **13. Heading entitled “Transparency”**

After “Transparency”, insert “and assessment of applications”.

#### **14. Paragraph 13**

Renumber as paragraph 17.

After “of the Scheme”, delete “or a representative of the participants in the Scheme in Australia.”

After “must”, insert “continuously”.

After “publish”, delete “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 within three months after this Access Regime comes into force” and insert:

on the Scheme’s website:

- (a) any eligibility criteria and the risks that the eligibility criteria seek to address;
- (b) the assessment criteria and the risks that the assessment criteria seek to address; and
- (c) the maximum time it will take to assess any application to participate in the Scheme in Australia before terms of participation will be proposed to the applicant or a decision on the application will be made.

## 15. Paragraph 14

Renumber as paragraph 18.

After “must provide to”, substitute “a person” with “an entity”.

After “the application before”, insert “terms of participation will be proposed to the applicant or”.

Renumber the last sentence as a new paragraph 19 and after “The administrator”, insert “of the Scheme”.

## 16. Paragraph 15

Renumber as paragraph 20.

After “must provide to”, substitute “a person” with “an entity”.

After the end of paragraph 15 (renumbered as paragraph 20), insert:

### **Certification and reporting**

21. The administrator of the Scheme must provide to the Reserve Bank on or before 31 July each year a certificate:

- (a) certifying, in respect of the twelve-month period ending on 30 June of that same year (the “reporting period”), that:
  - (i) at all times during the reporting period the eligibility criteria and the assessment criteria were in compliance with this Access Regime;
  - (ii) any applicant admitted to the Scheme during the reporting period met, at the time of admission, all risk-related eligibility and assessment criteria; and
  - (iii) at all times during the reporting period it has otherwise complied with this Access Regime; and
- (b) listing all entities whose application to participate in the Scheme in Australia was either made during the reporting period or outstanding at the commencement of the reporting period and details for each entity (as applicable) of:
  - (i) the date on which the application was made;
  - (ii) the outcome of the application;
  - (iii) the date(s) on which any proposal of terms of participation or conditional approval was communicated by the administrator of the Scheme to the applicant, the date on which the final decision on the application was communicated to the applicant and, if the final decision was to admit the applicant to the Scheme, the date on which the applicant was admitted to the Scheme; and
  - (iv) where the application was rejected, the reasons the application was rejected; and
- (c) listing all entities who ceased to be participants in the Scheme in Australia during the reporting period and providing details of the reasons these entities ceased to be participants to the extent known by the administrator of the Scheme.

