



RESERVE BANK OF AUSTRALIA

Payment Systems (Regulation) Act 1998

Revocation of the Standard on Interchange Fees for the EFTPOS System Designated in Designation No 2 of 2004: Explanatory Statement

Background

The Reserve Bank of Australia (the Bank) initiated a review of the EFTPOS regulatory framework in early 2012 in order to ensure that its regulation continues to meet its objectives in light of changes that have occurred in the system in recent years. Those changes include a shift from a system characterised by bilateral agreements between participants to one that is centrally managed by eftpos Payments Australia Limited (ePAL).

Reflecting these changes to the system, the Bank updated its designation of the EFTPOS system in *Designation No 1 of 2012* as the original designation (*Designation No 2 of 2004*) no longer clearly defined the system. The Standard titled *The Setting of Interchange Fees in the EFTPOS System* ('the 2006 Standard'), determined for the system under the original designation, is therefore no longer appropriate.¹

The Bank's review of the EFTPOS regulatory framework included a review of whether the form of its regulation of EFTPOS interchange fees was still appropriate, given recent changes in the system. Previously, interchange fees in the EFTPOS system had been constrained between 4 and 5 cents paid to the acquirer. In recognition of ePAL's capacity to set interchange fees in the interests of the system, in 2009 the Bank amended its regulation so that multilateral EFTPOS interchange fees (those set by ePAL itself) were subject to the same 12 cent cap – paid to the issuer – as that applying to the international debit schemes. Bilaterally negotiated fees in the EFTPOS system, however, remained constrained between 4 and 5 cents paid to the acquirer.

Most participants in the EFTPOS system have now adopted multilateral fees. In line with this, the Bank decided in November 2012 that it is appropriate for bilaterally negotiated fees to be subject to a similar cap to multilateral fees. To give effect to this decision, it is necessary to revoke the 2006 Standard (based on the 2004 designation, *Designation No 2 of 2004*) and put in place a new Standard (i.e. applying to the system designated in *Designation No 1 of 2012*).

Purpose and Operation

The purpose of the revocation is to promote competition and efficiency in the Australian Payments System by enabling the Bank to update its regulatory regime following its review of the regulatory framework for the EFTPOS system. A new Standard has been determined by the Bank, based on the revised designation of the EFTPOS system. The revocation applies to the previous Standard, relating to the EFTPOS system designated in *Designation No 2 of 2004*. The practical effect of the revocation, in combination with the new Standard, is to:

¹ As a technical matter, the original designation is in place concurrently with the new designation and will not be revoked until the broader EFTPOS regulatory framework has been implemented. This avoids a period without any EFTPOS regulation in force.

- apply regulation of the EFTPOS system to the system governed by the rules of EFTPOS Payments Australia Limited, in place of the system governed by rules in the CECS manual for the Consumer Electronic Clearing System
- remove the requirement under the 2006 Standard for bilateral interchange fees in the EFTPOS system to be between 4 and 5 cents paid to the acquirer, and
- replace this with a requirement for bilateral fees to not exceed the benchmark set for the Visa Debit System – currently 12 cents paid to the issuer.²

The revocation will take effect on 1 July 2013.

Consultation

The Bank first announced in September 2011 that it would review aspects of the regulatory framework for the EFTPOS system to ensure that it continues to meet its objectives. In line with this, the Bank invited submissions on two consultation documents. The first, published on 9 March 2012, sought views on the appropriate form of designation for the EFTPOS system to reflect recent changes, and invited submissions from interested parties by 20 April 2012. After considering the views expressed during that consultation, the second consultation document was published on 12 June 2012, and submissions were invited by 31 July 2012. The June 2012 document outlined the Board's decision on designation and possible options for the future regulatory framework for the EFTPOS system. After taking into account views expressed during consultation, a document detailing the final reforms was published on 29 November 2012.

Documents

- RBA (2012), *Review of the Regulatory Framework for the eftpos System: Consultation on Designation*, March.
Available at <<http://www.rba.gov.au/publications/consultations/201203-replacing-eftpos-designation/index.html>>.
- RBA (2012), *Review of the Regulatory Framework for the EFTPOS System: Consultation on Options for Reform*, June.
Available at <<http://www.rba.gov.au/publications/consultations/201206-rev-reg-frmwk-eftpos-sys/index.html>>.
- RBA (2012), *The Regulatory Framework for the EFTPOS System: Final Reforms and Regulation Impact Statement*, November.
Available at <<http://www.rba.gov.au/payments-system/reforms/debit-card-systems/201211-reg-frmwk-eftpos-sys/index.html>>.

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² The weighted average of multilateral interchange fees in the EFTPOS system is also capped at the Visa Debit benchmark, as it was under the 2006 Standard.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Revocation of the Standard on Interchange Fees for the EFTPOS System Designated in Designation No 2 of 2004

This Bill/Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill/Legislative Instrument

This legislative instrument revokes the Standard *The Setting of Interchange Fees in the EFTPOS System* as applied to the EFTPOS system designated in *Designation No 2 of 2004*. The purpose of the instrument – together with the updated designation (*Designation No 1 of 2012*) and the determination of the new Standard *Interchange Fees in the EFTPOS System* – is to promote competition and efficiency in the Australian payments system by ensuring that interchange fees in the EFTPOS system can be set within similar regulatory constraints to the other debit card systems.

Human rights implications

This Bill/Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Bill/Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Reserve Bank of Australia