

REVIEW OF RETAIL PAYMENTS REGULATION: ISSUES PAPER

SUBMISSION TO THE RESERVE BANK OF AUSTRALIA

31 January 2020

SUMMARY

1. ANZ welcomes the opportunity to respond to the Reserve Bank of Australia (**RBA**) *Review of Retail Payments Regulation: Issues Paper* (**Issues Paper**).
2. The Australian payments system has performed well, supported by the RBA regulatory approach. As described by the RBA, this approach seeks to promote an open, competitive and innovative market. There are strong relationships between the RBA, self-regulatory bodies and industry participants, for example supporting the New Payments Platform (**NPP**), the Australian Payments Council (**APC**) strategic agenda and Australian Payments Network (**AusPayNet**) initiatives and activities.
3. Key developments affecting the payments industry and the changes to be managed are widely recognised; for example, greater use of mobile technologies, potential new payments technologies and entrants, and cyber security challenges. The NPP is a foundation for the future Australian payments system. The transition from legacy payments systems will require considerable work and have to be closely managed.
4. The RBA and industry have pointed to the potential for rationalising Australian payments schemes or consolidating current industry organisations. In ANZ's view, determining the best structure for managing change and the future development of the industry-supported arrangements should be an important outcome from the RBA Review. We consider that the present arrangements limit the ability to prioritise investment. Effectively prioritising investment is central for achieving the best possible outcome for the Australian payments network and managing change. ANZ suggests that options for a future structure for industry-supported payment bodies and infrastructure should be developed through the Review process and considered. A consolidated 'Pay.UK-like' model may offer scale benefits, improve the ability to set cross industry investment priorities and manage transition programs across the industry.
5. Debit cards are increasingly important. ANZ has made merchant choice routing (**MCR**) available to nearly all of our merchant customers and we are providing information to customers about the availability and potential benefits of MCR. As use of mobile wallets and similar technologies increases, competitive access to these technologies will be important.
6. The 2017 interchange and credit card reforms have been effectively implemented. ANZ considers further analysis of these changes should be undertaken if additional adjustments to interchange rates were to be considered.

RESPONSE TO SPECIFIC ISSUES

Strategic Issues in the Retail Payments System

Q1: What major recent or prospective developments in the broader payments industry are particularly relevant to this review? More specifically, are there any gaps in functionality available to end users or any shortcomings in industry governance or operating arrangements that require regulation or coordinated industry action?

Q2: Are there aspects of retail payments regulation that lead to market distortions or that create opportunities for regulatory arbitrage? If so, what options should be considered as a means of addressing these? Are there gaps in the regulatory regime that need to be addressed or any elements where regulation is no longer required?

Q3: Are there barriers to innovation and/or competition that may affect the costs of or provision of electronic payments and should be addressed in this review?

Overall performance and approach

7. The Australian payments system has performed well. Consumers have benefited from the availability of new technologies and rapidly adopted them. There is considerable innovation, including mobile payments and the NPP. Levels of trust in the Australian payments system are high.
8. The regulatory approach of the RBA to the payments system has been an important foundation for this performance. The legislative framework for regulation of the payments system requires the Payments System Board to determine policy in a way that will best contribute to controlling risk and promoting efficiency and competition in the payments system, consistent with the overall stability of the financial system. The RBA is able to regulate the payment system where it considers it is in the public interest to do so.¹
9. This approach is consistent with the intent of Parliament that industry should operate through self-regulation insofar as this promotes an efficient, competitive and stable payments system, and subject to intervention where required by the public interest. Reflecting this, there have been strong relationships between the RBA, and payments bodies such as the APC and AusPayNet.
10. The RBA states that it seeks to ensure that new players in the payments industry can compete fairly and that there are no unwarranted restrictions on their participation in the

¹ RBA, 'Approach to Regulation – the Reserve Bank's Approach to Regulation of the Payments System', (Web page, 8 January 2020) <https://www.rba.gov.au/payments-and-infrastructure/payments-system-regulation/approach-to-regulation.html>. Comments on the RBA approach in subsequent paragraphs are taken from this source.

payments system. This approach is based on the goal of a regulatory regime that is technology neutral and supports competition and innovation.²

Developments

11. There is broad agreement between the RBA, self-regulatory bodies and industry participants on developments affecting Australian payments markets. The Issues Paper, recent RBA speeches and the November 2019 Australian Payments Network Consultation Paper (**AusPayNet paper**) point to:³
 - A continued rise in electronic and mobile payments, including the rapid growth in NPP payments
 - A decline in the use of cash, noting the continued importance of cash based payments to many Australians, and very rapid decline in the volume of cheque payments
 - The entry of major technology players and technology innovators into payments
 - Continuing cybersecurity and criminal challenges and the growing sophistication of technology used by criminals
 - The potential emergence of State-based central bank digital currencies and 'stable coins'
 - The need to manage the rationalisation of legacy domestic payments platforms while investing in new services
 - The central role of the NPP as a platform for domestic payments services.
12. There is wide acknowledgment of the dynamism of payments markets. Over a short period, mobile-based payments and Buy-Now-Pay-Later (**BNPL**) services have grown rapidly and companion cards have been virtually eliminated. Product offerings and pricing have been highly sensitive to regulatory, competitive and technology developments.

Australian payment systems and arrangements

13. The RBA and industry have pointed to the potential for rationalising Australian payments schemes or consolidating current industry bodies. In ANZ's view, determining the best structure for managing change and the future development of the industry-supported

² RBA, Submission to the Senate Select Committee on Financial Technology and Regulatory Technology, December 2019.

³ Australian Payments Network, *A Future State For Australia's Payment Systems Consultation Paper*, November 2019.

payment schemes and arrangements should be an important outcome from the RBA Review.

14. Significant investment will continue to be needed in industry supported payments infrastructure and programs. Providing payment services that meet customer expectations, are commercially sustainable and meet regulatory requirements involves considerable expertise and scale. Resources will be needed to manage the transition from legacy systems and ensure that the needs of current users continue to be met. The industry will need to plan investment and carefully manage activity across a range of industry-supported platforms and programs.
15. The present structure for industry governance and provision of domestic payment systems has been an important foundation for the positive performance of the Australian payments system. ANZ believes that it is now timely to consider options for governance and provision of industry-based infrastructure and programs given the extent and complexity of the work to be done and the dynamic environment.
16. ANZ has investments in domestic payment bodies and infrastructure, and is represented on the relevant Boards.⁴ In ANZ's experience, the structure of multiple organisations, and the competition and corporate law obligations to be met by each organisation, practically limit the extent to which discussions about industry priorities and planning can take place. This affects investment decision-making, and will affect any future discussion of system rationalisation and consolidation of industry bodies.
17. ANZ considers that options for governance and provision of public interest payment bodies and infrastructure should be developed and considered. As the Issues Paper points out, there has been a tendency for the consolidation of domestic arrangements in some other countries; for example, Pay.UK has brought together domestic systems and schemes under the New Payments Architecture. A consolidated model may offer scale benefits, and improve the ability to make decisions about investment and manage transition programs across the industry.

⁴ NPP Australia, eftpos Australia and AusPayNet (which is responsible for Australian Payment Clearing System, Bulk Electronics Clearing System, Issuers and Acquirers Community, High Value Clearing System, Australian Cash and Distribution Exchange System, and the Community of Interest Network). ANZ is also represented on the Australian Payments Council.

Competition in the cards market

Q4: How do stakeholders assess the functioning to date of least-cost routing (LCR) of contactless debit card payments? Do additional steps need to be taken regarding LCR to enhance competition and efficiency in the debit card market?

18. ANZ believes that the take-up of merchant choice routing (**MCR**) among its merchant customer base is robust given the relatively short period in which it has been available.
19. ANZ commenced offering MCR in April 2019 and has made it available to approximately 96% of our merchant customers.⁵ MCR allows merchants to choose their preferred dual-network-debit-card payment route for contactless debit card payments. As at December 2019, around 5% of merchant customers that have MCR available to them have enabled the service.
20. Whether or not a merchant customer will save money by activating MCR depends on circumstances of the business. Important factors include the fees associated with the business's merchant facility and the size of transactions.
21. For new merchant customers, ANZ provides information and support to encourage merchant customers to consider whether MCR will benefit their business. We have also made information available on our website about MCR and are considering options to provide more information to current merchant customers in 2020.
22. The environment in which MCR is offered is dynamic, a desirable feature of a competitive debit card market. The market is changing as routing options for debit card payments have become available. Merchants will need to continue to monitor market developments to achieve the best outcome for their business.
23. ANZ suggests that the RBA continue to monitor MCR take-up and other support provided by merchant services providers. Consistent with the RBA regulatory approach, ANZ believes that close consultation with particular providers and the industry should continue where problems are identified.

⁵ ANZ does not offer MCR for specialist facilities such as Multi Merchant facilities (multiple businesses using a single facility where not all users may wish to activate MCR), facilities with ANZ Extra Services or ANZ HealthPay functionality, and around 300 older terminals (which are progressively being replaced). This accounts for the 4% of merchants for whom MCR is not available.

Q5: Have recent and prospective developments in technology changed the case for promoting the continued issuance of dual-network debit cards? What policy actions might be needed to promote competition and efficiency in an environment where single-network cards were more prominent? Alternatively, would it be desirable to mandate (or incentivise through interchange caps) that all debit cards issued enable at least two unaffiliated/competing networks?

24. ANZ expects that physical cards will remain in use but their share of payments will change to reflect increased use of mobile wallets. End customers using mobile wallets rather than the merchant will determine the payment method. In light of this, customer access to alternative payment schemes when using a mobile wallet will be important and is an appropriate focus for policy.
25. The Issues Paper suggests that the RBA may consider future action in this area. ANZ would welcome the opportunity to comment on particular options and the benefits of alternative approaches. If the RBA contemplates regulatory changes, technologically neutral changes applied consistently to all participants in the relevant market, in our view, to be preferred.

Merchant Fees

Q6: Is there a case for further policy action to enhance competition in the provision of acquiring services to merchants? If so, what form could this action take?

26. ANZ supports a regulatory environment that is open to new competitors and notes that new providers of merchant acquiring services continue to enter the market. Given the significant capabilities required to provide acquiring services, market entry requires resources and investment.⁶
27. A stable environment for investment by both existing providers and new entrants, and seeking to minimise regulatory barriers will maximise competition in our view. Where new standards are proposed to facilitate 'non-standard' technologies, standards should be applied consistently across similar payment activities to ensure consistent protection of customers and a competitively neutral environment.

⁶ For example, ANZ's offers to merchants involve multiple communications technologies with redundancy, industry specific service (eg preferred currency, tipping or health fund related payment services), same day settlement, 24/7 service support across the markets in which we operate, high levels of security and fraud protection, links to accounting or banking systems and access to multiple payment systems. These offers are supported by many information technologies, financial analysis and accounting, anti-money laundering and cybercrime prevention, and other business processes and capabilities.

Scheme Fees

Q7: Is there a case for greater transparency in scheme fee arrangements, including their effect on payment costs? If so, what form should this take?

28. A fair, efficient and competitive payments market requires that merchants and card customers have access to information on prices and features of the products offered to them and that they accept. We are considering how we might provide additional information, particularly in relation to MCR to customers in the coming year.
29. The net benefits of a particular change to require more information on scheme costs would depend on the detail of the change.⁷ Outcomes would be affected by how end-users and market participants respond to the new information. Scheme costs are only one component of the costs of providing end-to-end merchant services. Cost analysis is often complex because of the high level of joint and common costs involved in supplying services and market dynamics.

Access Regimes

Q8: Are the existing access regimes working effectively?

30. Access regimes are working well and already facilitate transactions from a large number of domestic and international schemes. ANZ supports eight schemes (eftpos, Visa, Mastercard, American Express, Diners Club, JCB, UnionPay and Discover) and is not aware of other schemes denied entry to the market.

Mobile Devices

Q9: What are the implications of the growing importance of mobile devices and digital platforms for the retail payments system in Australia? Are there issues that arise for the Bank's regulatory regime for card payments or that are relevant to competition, efficiency and risk?

31. ANZ was the first major Australian bank to adopt the ApplePay digital wallet and our customers have embraced the technology enthusiastically. Industry has introduced QR-based payment technology, but it has not seen the widespread adoption that has characterised digital wallets. ANZ does not anticipate growth in QR-based payments displacing mobile-based NFC for domestic users in the immediate future. We support the

⁷ There is considerable literature on the complex effects of regulation on price competition and consumer outcomes. Competition and Markets Authority (UK), 'Regulation and Competition – A Review of the Evidence' (January 2020) advises that regulation that would require information on supplier outputs, prices, sales or costs to be made public or published should be considered carefully for its impact on competition (pages 29 and 74).

work underway within industry to standardise QR code payments and promote interoperability.

32. New mobile and related technologies will continue to develop rapidly and will require regulatory consideration. ANZ will continue to aim to work closely with the RBA to resolve emerging issues.

Interchange Fees

Q10: Is there a case for a further lowering of the credit or debit interchange benchmarks or any change in the way they are applied?

33. ANZ suggests that if lower credit or debit interchange benchmarks are to be considered, a more detailed assessment should be undertaken. It may be helpful to form a view on future scenarios for competition in the electronics payments markets, and examine recent trends such as declines in use of personal credit, significant reductions in merchant debit fee rates and three party scheme market share.
34. Customers have long benefited from innovation in the payments system, based on significant investment by issuers and card schemes in contactless cards and in growing their networks. Interchange fees create a revenue stream that supports the provision of card services and investment in innovation.
35. The RBA substantially reduced interchange fees with effect from 1 July 2017. Further limiting interchange fees would likely affect commercial attractiveness and benefits, and as a result the benefits offered to customers and the form of competition in the market.

Q11: Should regulation of interchange be extended to inter-regional interchange fees (i.e. interchange fees applying to transactions in Australia using foreign-issued cards)? What is the typical cost of transactions on foreign-issued cards, and how much of this is attributable to interchange fees?

36. The 2016 Review of Card Payments Regulation Conclusions Paper summarised complexities arising from extending interchange regulation to foreign-issued cards used in Australia. The RBA determined to continue monitoring the use of foreign-issued cards in Australia, supported by undertakings from the payment schemes.
37. The use of these cards remains modest and the Issues Paper does not suggest that foreign-issued cards have been used to circumvent RBA rules. ANZ suggests that the present RBA approach is appropriate and should be continued.⁸

⁸ The Issues Paper notes that Visa and Mastercard have provided legally binding undertakings to the European Commission regarding intra-regional interchange fees for card present transactions. EEC issued

Q12: Is there a case for applying regulation to three-party card systems? What form could this take?

38. Merchant fees charged by American Express and Diners Club have declined significantly and their share of transactions has fallen substantially.⁹ The Issues Paper discusses issues related to three-party schemes including a scenario in which three-party card schemes benefited if interchange fees were lowered. If this were to occur, the Issues Paper notes the potential for direct regulation of three-party scheme merchant fees to counteract such an advantage. ANZ suggests that the RBA should monitor trends in the event that it is concerned about risks to the competitive process and seek views on any further actions that may be considered.

Net Compensation

Q13: Is the revised net compensation provision in the interchange standards working effectively?

Q14: What enforcement mechanisms would strengthen observance of the net compensation provision?

39. ANZ considers that the compensation provisions in the interchange standards are working satisfactorily. ANZ's suggestions in relation to enforcement mechanisms are set out in response to question 17.

Surcharging

Q15: Is the surcharging framework working well? Are there any changes that should be considered?

Q16: Is there a case for policymakers to require that BNPL providers remove any no-surcharge rules, consistent with earlier actions in regard to card systems that applied such rules?

40. ANZ supports the right of a merchant to surcharge and the RBA's view that this increases cost transparency in payments, promotes efficient customer choices and assists merchants.¹⁰ Reforms to address issues of excess surcharging and ensure merchants have easy-to-understand information on the cost of acceptance are also important.

41. ANZ supports the consistent application of this framework to all participants in the payments system, including BNPL providers. As indicated in the Issues Paper, the right to

cards are likely to account for a minority of use of foreign-issued cards in Australia and further work would be required on the implications of this development.

⁹ Issues Paper, Graph 4, page 7. See also 'C1.3 Credit and Charge Cards – Market Shares of Card Schemes' at www.rba.gov.au/statistics/tables

¹⁰ RBA, Review of Cards Payment Regulation Conclusions Paper, May 2016, p.32.

surcharge allows the merchant to signal to customers that particular payment method was more or less costly. Implementing this principle consistently across payments methods would minimise the risk that customers using low cost payment methods cross-subsidise customers choosing to use high cost payment methods.¹¹

Enforcement

Q17: Are there potential enhancements to the Bank's regulatory powers and enforcement mechanisms that could improve the effectiveness of retail payments regulation?

42. ANZ supports the steps taken by the Government to ensure that financial system regulation and its enforcement are effective and deter misconduct.
43. Relevant regulatory standards and expectations that give rise to significant penalties should be clearly defined. This will avoid ambiguity and ensure that regulatory action can be taken effectively.
44. In an environment in which technology and competition is changing rapidly, it is important that market participants have a clear understanding of penalties associated with regulatory standards and have an opportunity to engage with regulators to clarify interpretation. This avoids the risk of an overly conservative interpretation of rules that may ultimately limit investment, innovation and competition.
45. An enhancement to regulatory powers and enforcement mechanisms should not limit the RBA's continued close engagement with industry and use of Codes consistent with the policy framework outlined by Parliament and good practice regulation.¹²

Comments on other issues

Cash

46. The use of cash in transactions in Australia has declined with cash in 2016 accounting for just 37 per cent of all payments, down from 69 per cent in 2007.¹³ The decline in cash use is expected to continue to occur although cash will continue to have an important place in Australia's payments system for years to come.

¹¹ Issues Paper, p.6.

¹² In relation to good practice, refer Competition and Markets Authority (UK), 'Regulation and Competition – A Review of the Evidence' (January 2020) p9 which supports forms of regulation that are not unduly restrictive in a changing environment; for example, use of codes of conduct, and participative regulation.

¹³ Reserve Bank's 2016 Consumer Payments Survey

47. We support the APC work on a strategy for Australia's lower reliance on cash, noting that it is important that the decline in the use of cash is managed efficiently and considers those in the community who continue to rely on cash as a regular form of payment.

Cheques

48. The use of cheques in Australia has reduced by 82 per cent over the last 10 years and is expected to decline even further.¹⁴
49. However, cheques continue to be used as a method of payment by certain sections of Australian society and in particular industries. It is important that the RBA and industry continue to work together to consider the implications of the expected further decline in the use of cheques and promoting readily accessible payment methods for customers currently reliant on cheques.

Resilience of the Retail Payments System

50. Given their importance to the economy, payments platforms must be resilient, stable and protected from cyberattack. ANZ supports the work underway through AusPayNet, the RBA and APRA on retail incident reporting. As AusPayNet states, the aim is to modernise the reporting of outages in retail payments, improve the actual incident data's consistency and focus it on customer impact, and develop a framework for disclosing data.

Cross Border Transactions

51. ANZ recognises the importance of cross-border payments. We are currently implementing changes following the 2019 ACCC Foreign Currency Conversion Services Inquiry.
52. Within our region, ANZ recognises that Pacific economies rely heavily on funds being remitted from Australia, and in July 2019 we reduced our international money transfer fees for transactions from Australia to 12 Pacific Island countries for the second time since 2017.

Cancellation or redirection of direct debit or automated payments

53. NPP Australia is currently developing the Mandated Payment Service (**MPS**) capability, which will facilitate third party payment initiation on the NPP. This capability will enable a broader range of uses of the NPP, including recurring or subscription type payments and ecommerce, as well as the ability to cancel and redirect payments.

¹⁴ AusPayNet – <https://www.auspaynet.com.au/network/cheques>

54. ANZ supports this approach and believes the development of MPS will provide the capability to address concerns surrounding the ease of cancellation or redirection of direct debit or automated payments.

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