

Statement of Intent of the Payments System Board

This Statement of Intent has been made by the Payments System Board (PSB) in response to the Government's Statement of Expectations for the PSB issued on 27 June 2018.

The PSB is one of two boards of the Reserve Bank of Australia (the Bank), along with the Reserve Bank Board. The PSB is responsible for the Reserve Bank's payments system policy, including policy in relation to clearing and settlement (CS) facilities. It is chaired by the Governor of the Bank and includes one other representative of the Bank (who is the Deputy Chair), one representative of the Australian Prudential Regulation Authority (APRA) appointed by APRA and up to five other members appointed by the Treasurer. Support for the policy activities of the PSB is provided by staff from the Bank's Payments Policy Department.

This Statement relates only to the role and functions of the PSB, and the activities of the Bank in support of the PSB.

PSB's Role and Objectives

The payments system mandate, powers and responsibilities of the PSB and the Bank are set out in the following statutes:

- *Reserve Bank Act 1959*
- *Payment Systems (Regulation) Act 1998*
- *Payment Systems and Netting Act 1998*
- Part 7.3 of the *Corporations Act 2001*

Under these, the PSB has a general duty to ensure within the limit of its powers that the Bank's payments system policy is directed to the greatest advantage of the people of Australia.

The PSB also has a duty to ensure that the Bank exercises its powers in a way that best contributes to:

- controlling risk in the financial system
- promoting the efficiency of the payments system
- promoting competition in the market for payment services, consistent with the overall stability of the financial system.

While the PSB determines the Bank's payments system policy, and oversees the Bank's implementation of this, it is the Bank that exercises the powers granted to it in the legislation under which it operates.

In its policymaking for and regulation of the payments system, the PSB intends to maintain its longstanding publicly stated presumption in favour of self-regulation by the industry, with the PSB intervening only where the industry is unable to address a public interest concern.

Independence, Transparency, Accountability and Governance of the PSB

The legislation that establishes the PSB's responsibilities and powers also affords it substantial independence from the Government in the way that it determines and implements the Bank's policies. The PSB welcomes the Government's recognition and respect of the independence of the PSB. The PSB is committed to exercising its role and functions objectively and in a way that best promotes the public interest. Insofar as they are consistent with its statutory obligations, the PSB will take into account the Government's policy priorities in performing its role and discharging its responsibilities.

The PSB recognises that in performing its role, independence must be accompanied by high levels of transparency and accountability. To that end, the PSB remains committed to its current accountability and transparency mechanisms:

- A majority of members are independent, consistent with Recommendation 108 of the Wallis Inquiry (and with current ASX Corporate Governance Principles). Currently, and consistent with the relevant provisions of the Reserve Bank Act, only two of the eight members of the PSB are Bank officials.
- The Bank publishes an annual report of the PSB that covers the activities of the PSB and developments in retail payments systems and financial market infrastructures (FMIs) relevant to the PSB's mandate. This report, which is the primary accountability vehicle with respect to the Bank's payment system responsibilities, is customarily tabled in the Parliament and published on the Bank's website.
- The Bank publishes a Corporate Plan, which incorporates performance measures relevant to the PSB's responsibilities and reports on the achievement of those measures in the Annual Performance Statement in the RBA Annual Report, which is also tabled in the Parliament and published on the Bank's website.
- The Governor and other senior officials of the Bank appear twice a year before the House of Representatives Standing Committee on Economics, where any aspect of the PSB's annual report or the Bank's operations – including in relation to payment system matters – can be raised. The Bank periodically also makes submissions to, and provides testimony to, relevant Parliamentary committees and hearings.
- The Bank is committed to a high degree of transparency in its consultative processes when undertaking any regulatory action, and intends to continue its practice of making available to the public a significant amount of material as part of these processes; this includes publishing detailed consultation papers, non-confidential submissions to consultations and the Bank's responses to consultations.
- At the conclusion of each meeting of the PSB, the Bank publishes a media release on key matters discussed; it also issues media releases when any major decisions are taken.
- The Bank has adopted a conflicts of interest policy addressing the possibility of any perception that the Bank's policy function and its operational role as provider of banking services to the Australian Government may be in conflict.

The PSB members will continue to adhere to the Code of Conduct for PSB members and the relevant obligations in the *Public Governance, Performance and Accountability Act 2013* and the *Public Governance, Performance and Accountability Rule 2014* imposed on them under the *Reserve Bank Act 1959*.

Balancing Objectives for the Financial System of the Future

The PSB welcomes the Government's recognition of the importance of a safe and efficient payments system and CS facilities for the day-to-day functioning and ongoing resilience of the Australian economy and financial system.

In developing and implementing its policies, the PSB is cognisant of the need to strike a balance across its mandated objectives and welcomes the Government's recognition of this. In practice, the PSB's consideration of payment systems and CS facilities whose smooth functioning is important to the stability of the financial system – due, for instance, to the large values processed in them, or the vital role they play in the functioning of financial markets or monetary policy – has largely related to its responsibilities for controlling risk. In contrast, its mandate to promote efficiency and competition has been more important in its consideration of those payment systems where a large number of (typically low-value) transactions are processed.

The PSB and the Bank intend to maintain their forward-looking approach to monitoring and assessing risks, and the PSB will ensure within the limits of its powers that the powers of the Bank are exercised in a way that in the PSB's opinion will best contribute to an appropriate management of risk in FMIs, including systemically important payment systems. The PSB welcomes the Government's recognition that the PSB cannot and should not seek to eliminate all risk in the payments system. Primary responsibility for risk management of payment systems and licensed CS facilities lies with the board and senior management of such systems and facilities.

The PSB and Bank remain committed to exercising their powers in a way that promotes efficiency and competition in the payments system, consistent with the PSB's statutory responsibilities. In the past, the Bank has pursued policy, and in some cases imposed regulation, that has been specifically focused on enhancing various aspects of payment system efficiency: technical, allocative and dynamic efficiency. For instance, the Bank addressed technical efficiency through its work to encourage shorter settlement cycles for cheques and direct entry payments. Much of the Bank's work on card interchange fees and surcharging is aimed at improving allocative efficiency by making price signals more transparent to end-users, thereby encouraging a more efficient payments system. Finally, the Bank has sought dynamic efficiency through its efforts to encourage innovation in the payments system, notably from the strategic objectives it set for the payments industry following its 2012 Strategic Review of Innovation in the Payments System.

The Bank's pursuit of competition in the payments system has largely focused on two areas. First, it has sought to remove unwarranted restrictions on participation in retail payment systems. Doing so has inevitably involved striking a balance between the competition new participants can bring and the additional risks that can arise, particularly where new entrants are not subject to the same level of prudential regulation as incumbents. The Bank has also focused on the potential for actions by one party (or parties) to adversely affect the capacity of another party to compete. Where the Bank has been unable to persuade participants to respond to its concerns on a voluntary basis, the principal regulatory tool it has used to address competition issues is the imposition of access regimes. The Bank currently has access regimes in place for the credit card systems operated by Mastercard and Visa and for the ATM system. In recent years, the Bank has also taken a number of actions to enhance competitive pressure in the debit card market by supporting the issuance and use of dual-network debit cards and encouraging acquirers to provide merchants with the ability to choose which network to route contactless transactions on dual-network cards.

Responding to Changing Circumstances

The PSB recognises that the payments system is constantly evolving and that new issues and risks will emerge that may demand a shift in regulatory focus. To ensure that it is forward looking, the PSB has endorsed a set of strategic priorities that guide the Bank's payments policy. These priorities reflect the PSB's assessment of trends and developments in the retail payments and FMI areas that could have the most significant implications for competition, efficiency and risk over the next few years. The Bank's medium-term retail payments and FMI work agendas are focused on addressing these priorities. The current list of strategic priorities was outlined in a chapter in the PSB's 2017 annual report. The PSB will periodically review these strategic priorities as the retail payments and FMI landscape evolves and will encourage the Bank to allocate staff resources accordingly.

The Government's Policy Priorities for the Financial System

The PSB recognises the Government's policy priorities for the financial system and will seek to support those objectives where they intersect with the PSB's mandate. In particular, the PSB welcomes the Government's goal to stimulate innovation in the payments system. The PSB has had a longstanding focus on encouraging innovation aimed at promoting efficiency and competition in the payments system. The PSB undertook a strategic review of innovation over 2010 to 2012 focused on

identifying gaps in the payments system and barriers to cooperative innovation. As a result of this review, the PSB decided to periodically set strategic objectives for the payments system and encouraged the establishment of the Australian Payments Council as an enhanced industry coordination body that could help achieve those objectives. Another key outcome of the strategic review was the industry program to build the New Payments Platform, which was recently launched and will over time facilitate the provision of significantly enhanced payments services to households, businesses and government agencies.

The PSB recognises that it can play an effective convening and catalysing role in overcoming coordination problems that can make industry-wide innovation challenging, and intends to continue its approach of setting strategic objectives for industry rather than using regulation to drive innovation.

The PSB agrees that a clear and graduated regulatory regime can also support competition and innovation in the payments system. The current approach to retail payments systems is already graduated in the sense that the Bank imposes regulatory requirements only where a public policy issue arises that the industry is unable to address. The Bank, in conjunction with other members of the Council of Financial Regulators, has recently embarked on a review of the regulatory framework for retail payments, with a focus on purchased payment facilities. This review will examine whether the regulatory framework is appropriately clear and calibrated to the risks posed by different payment facilities. The Bank has also established a graduated approach to regulating CS facilities. The Bank takes into account a CS facility's systemic importance and degree of involvement in the Australian market in determining how frequently to formally assess the compliance of the facility and what requirements to impose on it. In addition, the Bank follows a technology-neutral approach to its oversight and regulation in order to accommodate new technologies and innovation.

The PSB has implemented wide-ranging reforms to Australia's card payment systems since the early 2000s, including introducing limits on interchange fees in designated card schemes and giving merchants the ability to surcharge customers up to the merchants' costs of acceptance for different cards. Broadly speaking, these reforms have been aimed at enhancing competition and efficiency in card payment systems. The PSB undertook a comprehensive review of its card reforms in 2015–16, which resulted in some additional changes to the regulatory framework that have been implemented over recent years. The PSB will continue to monitor the impact of its reforms. It will assess whether the regulatory framework remains appropriate or if changes are required to promote competition and efficiency as part of its next comprehensive review of the cards regulatory framework.

The PSB supports the Government's open-data priorities and the objective of sharing more Government data where possible. While the Bank is subject to necessary legislative obligations to protect information from public disclosure, including where there may be commercial sensitivities, the Bank is also committed to making as much data available to the public as possible. The Bank recently completed a multi-year project to modernise its main retail payments statistical collection, which was aimed at enhancing the relevance of the data collected and minimising industry reporting burden. The Bank is now examining the feasibility of publishing more of the data from this collection on its website. In due course, the PSB will look to develop a data policy that will address the scope and arrangements for greater sharing of the data the Bank collects in support of the PSB's responsibilities.

The Government's Priorities for Regulatory Reform

The PSB supports the Government's commitment to reducing red tape and compliance costs for business. Consistent with this, as noted above, the PSB intends to maintain its longstanding support of industry self-regulation where appropriate. Where it does directly regulate industry participants, the PSB intends to maintain its preferred approach of principles-based regulation that focuses on the required regulatory outcomes rather than specifying how those outcomes should be achieved. This

approach provides greater flexibility and will help to minimise regulatory and compliance burden. The PSB has also been active in looking for opportunities to reduce this burden and will continue to do so. Examples of deregulatory reforms in recent years include the PSB's decisions to remove or relax the access regimes applying to various payment card systems.

In considering any future regulatory proposals, the PSB will continue to undertake and publish Regulation Impact Statements consistent with the Government's Regulatory Impact Analysis requirements, and is committed to following regulatory best practice.

The Bank adheres to the Government's Regulator Performance Framework (RPF). It undertook its first annual assessment in 2015/16 and has published assessment reports each year since then. As part of this process, the Bank seeks feedback from regulated entities on its performance in relation to the administration, monitoring and enforcement of its regulatory objectives. The Bank will continue to collect and report on feedback from regulated entities in accordance with the RPF and use that feedback to streamline and modify its regulatory processes where possible.

Relationship with the Regulated Population and Industry Stakeholders

The PSB recognises the importance of open and constructive dialogue with regulated entities and other industry stakeholders for the effective design and implementation of policy. The Bank has frequent engagement with a wide range of stakeholders, through both formal and informal channels.

The PSB and Bank have a number of formal arrangements for engaging with different industry stakeholder groups. For instance: the PSB has a Memorandum of Understanding (MOU) with the Australian Payments Council (APC) to support regular engagement between the two bodies; the Bank has a bilateral agreement with the Australian Payments Network (formerly the Australian Payments Clearing Association), the main payments system industry self-regulatory body, to support regular liaison; and the Bank has established a Payments Consultation Group with the aim of providing a more structured mechanism for users of the payments system – including organisations representing consumers, businesses and government agencies – to convey their views on payment systems issues. In the FMI area, the Bank meets at least quarterly with each FMI. The regularly scheduled meetings cover a wide range of topics including developments in financial and operational risk management.

Consistent with its statutory obligations, the PSB will consult widely before introducing any regulatory requirements. As part of a structured consultation process, the Bank issues a detailed consultation document on any proposal and invites feedback from all stakeholders, allowing a reasonable period of time for responses to be provided. Bank staff make themselves available for discussions with any and all parties that may be affected by the Bank's regulatory actions. In any regulatory action, the PSB is conscious of the need to allow sufficient time for affected entities to implement the regulatory change.

Relationship with the Government and the Responsible Minister

The PSB is committed to providing Treasury portfolio Ministers with accurate and timely advice on significant issues in the PSB's core areas of responsibility with a view to the Government being well placed to respond promptly to issues that may arise in those areas. As part of this, the Chair of the PSB will meet with the Minister at least annually to discuss the PSB's performance and issues of relevance to the payments system, including FMIs.

Relationship with the Treasury

The Bank's staff maintain a close dialogue with staff of the Treasury. In support of the PSB's relationship with the Government, the Bank intends to continue its current approach of providing to Treasury copies of material provided to Ministers where relevant and permissible. These will be directed to the Secretary to the Treasury as per the Government's expectation. The Bank will also

keep the Secretary to the Treasury appropriately informed of significant meetings with Government Ministers and Parliamentary bodies, and will provide advice as relevant with regard to the regulatory framework and opportunities for minimising compliance costs. The Bank will also continue its regular liaison with the Treasury, both bilaterally, and through forums such as the Council of Financial Regulators.

Relationship with Other Government Bodies and Regulators

The Bank intends to maintain its long-established and collegiate working relationships with other domestic regulatory agencies, including the Australian Competition and Consumer Commission (ACCC), APRA, and the Australian Securities and Investments Commission (ASIC).

Given that the Bank shares with the ACCC regulatory responsibilities and powers in relation to the payments system, and shares with ASIC regulatory responsibilities in relation to CS facilities, the Bank has established MOUs with each of these agencies, partly focused on achieving policy consistency and avoiding overlap.

The Bank also looks to develop and maintain collaborative relationships with its international peers. The Bank has established MOUs with several overseas authorities in support of its oversight and supervision of overseas FMIs, and looks to participate in multilateral supervisory arrangements where possible. The Bank also participates in payments system discussions held in international forums such as the Committee on Payments and Market Infrastructures, the Financial Stability Board and the Executives' Meeting of East Asia-Pacific Central Banks.

As it has done in the past, the Bank will continue to engage with any Government panels, reviews or inquiries where appropriate and will respond to any recommendations directed at it. The Bank has made extensive submissions to a number of recent inquiries. In 2015–16, for example, the PSB completed a major review of its card payments regulation and introduced a number of regulatory measures that specifically addressed recommendations made in the 2014 Financial System Inquiry, including in relation to card surcharging. More recently, the Bank made submissions to the Productivity Commission's Inquiry into Competition in the Australian Financial System. The PSB will in due course respond to the recommendations from this Inquiry that were directed to the PSB.