

Form FC

Commonwealth of Australia

Competition and Consumer Act 2010 — subsection 91C (1)

APPLICATION FOR REVOCATION OF A NON-MERGER AUTHORISATION AND SUBSTITUTION OF A NEW AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 91C (1) of the *Competition and Consumer Act 2010* for the revocation of an authorisation and the substitution of a new authorisation for the one revoked.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of applicant:
(Refer to direction 2)

A91450 Cuscal Limited ABN 95 087 822 455 (“**Cuscal**”) and ;
A91451 rediATM network members (collectively the applicants)
A91452

- (b) Description of business carried on by applicant:
(Refer to direction 3)

Cuscal is a wholesale provider of transactional banking, liquidity and capital management products to specialist financial service retailers. Relevant to this application for authorisation, Cuscal provides wholesale and transactional services to the mutual authorised deposit-taking institutions sector.

Cuscal has a number of roles in the Australian ATM system:

- (a) it owns ATMs;
- (b) it acquires transactions from its own ATMs;
- (c) it is a direct participant in the Consumer Electronic Clearing System;
- (d) it owns and operates a subnetwork, the RediATM Network (formerly known as the Rediteller network), within which it supplies a range of services to RediATM Network Members (Members), including:
 - (i) acquiring transactions from Members' ATMs;
 - (ii) issuing debit and credit cards to its Members' cardholders, on their behalf;

- (iii) switching, clearing and settling transactions;
 - (iv) providing access to the infrastructure (including computer equipment, computer software and related equipment) that enables the connectivity, exchange of information, authorisation and reconciliation of transactions between Members and between Members and other financial institutions; and
 - (v) providing access to Cuscal's interchange links with the major financial institutions.
- (c) Address in Australia for service of documents on the applicant:

Attention: Company Secretary and General Counsel,
Level 1, 1 Margaret Street, Sydney,
NSW 2000

2. Revocation of authorisation

- (a) Description of the authorisation, for which revocation is sought, including but not limited to the registration number assigned to that authorisation:

Authorisation A91175, A91176 and A91177 (together “the authorisation”) granted by the ACCC on 27 January 2010 in regard to agreements between Cuscal Limited (Cuscal), National Australia Bank and members of the rediATM network to:

- make and give effect to arrangements between Cuscal and all other members to not directly charge member issuers’ cardholders for the supply of ATM transaction services at a rediATM
- make and give effect to arrangements between Cuscal and all other members to not charge cardholders of issuers who are not members a direct charge which exceeds a specified maximum direct charge for the supply of ATM transaction services at a rediATM
- refuse to give a discount to a foreign cardholder in relation to the supply of ATM transaction services at a rediATM
- make and give effect to arrangements between Cuscal and all other members about the deployment of ATMs in the rediATM network.

The ACCC granted authorisation for five years.

- (b) Provide details of the basis upon which revocation is sought:

The authorisation expires on 18 February 2015. Revocation of the existing authorisation (A91175, A91176 and A91177) and granting a

fresh Authorisation are essential to ensuring uninterrupted continuation of the rediATM network.

3. Substitution of authorisation

- (a) Provide a description of the contract, arrangement, understanding or conduct whether proposed or actual, for which substitution of authorisation is sought:

(Refer to direction 4)

Cuscal seeks authorisation under the Competition and Consumer Act 2010, on a substantially similar basis to the applications and authorisation A91175, A91176 and A91177 to:

- give effect to arrangements between Cuscal and all other members to not directly charge member issuers' cardholders for the supply of ATM transaction services at a rediATM
- give effect to arrangements between Cuscal and all other members to not charge cardholders of issuers who are not members a direct charge which exceeds a specified maximum direct charge for the supply of ATM transaction services at a rediATM
- refuse to give a discount to a foreign cardholder in relation to the supply of ATM transaction services at a rediATM
- give effect to arrangements between Cuscal and all other members about the deployment of ATMs in the rediATM network.

- (b) Description of the goods or services to which the contract, arrangement, understanding or conduct (whether proposed or actual) relate:

The contract, arrangement or understanding relates to:

- the deployment of ATMs; and
- ATM transaction services supplied by ATM owners to cardholders.

- (c) The term for which substitute authorisation of the contract, arrangement or understanding (whether proposed or actual), or conduct, is being sought and grounds supporting this period of authorisation:

The ACCC has previously approved an authorisation for a period of 5 years.

The arrangements have assisted in removing some of the competitive disadvantages faced by members of the rediATM Network when competing with large financial institutions, increased competition with the large financial institutions and resulted in a clear public benefit by

facilitating access to direct fee free transactions at a wider range of ATMs for members' cardholders.

Cuscal seeks re-authorisation for a period of 10 years.

4. Parties to the contract, arrangement or understanding (whether proposed or actual), or relevant conduct, for which substitution of authorisation is sought

- (a) Names, addresses and description of business carried on by those other parties to the contract, arrangement or understanding (whether proposed or actual), or the relevant conduct:

There are currently **92** members of the rediATM Scheme including National Bank of Australia.

See **Attachment 1** for details.

- (b) Names, addresses and descriptions of business carried on by parties and other persons on whose behalf this application is made:
(Refer to direction 5)

The application is made on behalf of Cuscal, the 91 other current members of the rediATM Network (including National Bank of Australia) listed in **Attachment 1** and each future member.

For the purposes of this application, future members of the rediATM network do **not** include Commonwealth Bank of Australia Limited, Westpac Banking Corporation Limited, Australia and New Zealand Banking Corporation Limited, Cashcard Australia Limited, Customers Limited or any of their bodies related corporate.

- (c) Where those parties on whose behalf the application is made are not known - description of the class of business carried on by those possible parties to the contract or proposed contract, arrangement or understanding:

Not applicable.

5. Public benefit claims

- (a) Arguments in support of application for substitution of authorisation:

Please refer to the Submissions in **Attachment 1**

.....
(See Direction 6 of this Form)

- (b) Facts and evidence relied upon in support of these claims:

Please refer to the Submissions in **Attachment 1**

.....

6. Market definition

Provide a description of the market(s) in which the goods or services described at 3 (b) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

Please refer to the Submissions in **Attachment 1**

.....
(See Direction 7 of this Form)

7. Public detriments

- (a) Detriments to the public resulting or likely to result from the substitute authorisation, in particular the likely effect of the conduct on the prices of the goods or services described at 3 (b) above and the prices of goods or services in other affected markets:

Please refer to the Submissions in **Attachment 1**

(See Direction 8 of this Form)

- (b) Facts and evidence relevant to these detriments:

Please refer to the Submissions in **Attachment 1**

8. Contracts, arrangements or understandings in similar terms

This application for substitute authorisation may also be expressed to be made in relation to other contracts, arrangements or understandings (whether proposed or actual) that are, or will be, in similar terms to the abovementioned contract, arrangement or understanding

- (a) Is this application to be so expressed?

Not applicable

- (b) If so, the following information is to be furnished:

- (i) description of any variations between the contract, arrangement or understanding for which substitute authorisation has been sought and those contracts, arrangements or understandings that are stated to be in similar terms:

Not applicable

(See Direction 9 of this Form)

- (ii) Where the parties to the similar term contract, arrangement or understanding(s) are known - names, addresses and description of business carried on by those other parties:

Not applicable

(iii) Where the parties to the similar term contract, arrangement or understanding(s) are not known — description of the class of business carried on by those possible parties:

Not applicable

9. Joint Ventures

(a) Does this application deal with a matter relating to a joint venture (See section 4J of the *Competition and Consumer Act 2010*)?

Yes.

(b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

No.....

(c) If so, by whom or on whose behalf are those other applications being made?

Not applicable

10. Further information

(a) Name, postal address and telephone contact details of the person authorised by the parties seeking revocation of authorisation and substitution of a replacement authorisation to provide additional information in relation to this application:

Derek Armstrong
Corporate & Compliance Lawyer
Cuscal Limited
Level 1, 1 Margaret Street,
Sydney NSW 2000
Ph. (02) 8299 9000

Dated: 7th August 2014

Signed by/on behalf of the applicant

.....
(Signature)

Adrian Lovney
(Full Name)

Cuscal Limited.....
(Organisation)

General Manager.....
(Position in Organisation)

ATTACHMENT 1

ADDITIONAL INFORMATION AND SUBMISSIONS

Form FC

Commonwealth of Australia

Competition and Consumer Act 2010 — subsection 91C (1)

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To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 91C (1) of the *Competition and Consumer Act 2010* for the revocation of an authorisation and the substitution of a new authorisation for the one revoked.

1. In support of the application for revocation and substitution filed by Cuscal Ltd and members of the rediATM Network the applicant:
 - a) iterates the detailed submissions filed in support of authorisation A91175, A91176 and A91177 including requests that certain information be kept confidential and that only a public version be placed on the ACCC's public register;
 - b) incorporates by reference, and relies upon, the ACCC's detailed evaluation and conclusions contained in authorisation A91175, A91176 and A91177;
 - c) in regard to agreeing not to directly charge each other's cardholders for ATM transactions undertaken at ATMs owned by other members of the rediATM Network, incorporates by reference and relies upon:
 - i. the ACCC's related authorisation number A91429, detailed evaluation, conclusions and decision in the Draft Determination dated 18 June 2014, in relation to an Application by Cashcard Australia Limited regarding FeeSmart Network members (noting that it re-authorised current and future FeeSmart Network members to agree not to directly charge each other's cardholders for ATM transactions undertaken at ATMs owned by other members of the FeeSmart Network); and

- ii. the Reserve Bank of Australia's letter of 27 May 2014 addressed to the ACCC regarding Cashcard Australia Limited and authorisation A91429 stating that (i) it had examined the information provided by the ACCC; (ii) the proposed re-authorisation is consistent with the intent of the Access Regime for the ATM System for sub-networks and will not introduce additional competition or efficiency issues based on the current market; and (iii) that it has no objection to the re-authorisation;
(see **Attachment 2**)

d) makes the following additional submissions:

- i. the rediATM network arrangements (as authorised by the ACCC in its Determination dated 27 January 2010 regarding applications for authorisation A91175, A91176 and A91177) have been in place for nearly 5 years and have resulted in a procompetitive net public benefit that has improved the competitiveness of the rediATM Network and promoted competition between ATM transaction providers more generally;
- ii. there have been no relevant changes to the rediATM Network arrangements described at paragraph 5.5 of the ACCC Determination since 27 January 2010, the date of Determination of applications for authorisation A91175, A91176 and A91177;
- iii. re-authorisation is consistent with the intent of the Access Regime for the ATM System prescribed by the Reserve Bank of Australia for sub-networks (including arrangements that facilitate access to direct fee free transactions at a wider range of ATMs for their cardholders) and does not introduce additional competition or efficiency issues based on the current market;
- iv. the cap on the ATM transaction fees charged to foreign cardholders results in a public benefit by providing greater certainty about these fees, increasing uniformity and consistency of charges across the rediATM network as well as promotion of the rediATM brand and competition for the provision of ATM transaction services more generally;
- v. the coordination of deployment of ATMs by rediATM members within their network assists in achieving greater coverage for the network, improving the efficiency of the network and providing greater choice for customers in undertaking ATM transactions;
- vi. agreeing not to directly charge each other's cardholders for ATM transactions undertaken at ATMs owned by other members of the rediATM Network results in greater overall coverage for the ATM network, improved efficiency in the network and greater choice for

customers in undertaking ATM transactions, and has provided cardholders of smaller financial institutions with the ability to access a wider range of ATMs, consistent with the Access Regime - it is not detrimental to competition in the ATM system;

- vii. in terms of a 'counterfactual prediction', if authorisation is not granted then it is likely that members of the rediATM network will revoke the 'no direct charge' arrangements, the 'maximum foreign direct charge' arrangements and the 'ATM deployment' arrangements and that the members (including NAB) would resign their membership, resulting in the rediATM network no longer being available to the public. Smaller members would again be at a competitive disadvantage to larger institutions and would have a lower share of customers, there would be a reduction in the number of ATM's available to the public and increased inconvenience and lack of choice for customers;
- viii. there is no detriment to the public constituted by any lessening of competition arising from the conduct, and there has been such a benefit to the public that the conduct should be reauthorised and allowed to continue.

2. The **92** current members of the rediATM Scheme are listed below:

Advantage Financial Services Pty Ltd	Liberty Financial Pty Ltd
AFG Securities Pty Ltd	Lombard Finance Pty Ltd
Allied Members Credit Union Ltd	Lysaght Credit Union Ltd
AMP Bank Limited	Macarthur Credit Union Ltd
Australian Central Credit Union Ltd	Macquarie Credit Union Limited
Australian Defence Credit Union Limited	Manly Warringah Credit Union Limited
AWA Credit Union Limited	Maritime Mining and Power Credit Union Limited
B&E Personal Banking	mecu Limited
Bank Of Queensland Limited	My Credit Union Limited
Bank of Sydney Ltd	MyState Financial Limited
Bankstown City Credit Union Ltd	NAB
Berrima District Credit Union Ltd	Northern Inland Credit Union Limited

Big Sky Building Society Limited	Nova Credit Union Limited
CAPE Credit Union Limited	Once Credit Pty Limited
Central Murray Credit Union Limited	Orange Credit Union Limited
Central West Credit Union Limited	Police & Nurses Limited
Challenger Limited	Police Bank Ltd
Circle Credit Co-Operative Limited	Police Credit Union Limited (SA)
Citibank	Pulse Credit Union Limited
Community Alliance Credit Union Limited	QT Mutual Bank Limited
Community CPS Australia Limited	Quay Credit Union
Community First Credit Union Limited	Queensland Police Credit Union Limited
Country First Credit Union Ltd	Queensland Professional Credit Union Ltd
Credit Union Australia Ltd	Queenslanders Credit Union Limited
Credit Union SA Ltd	Railways Credit Union Limited
Cuscal Ltd	Rural Finance Corporation of Victoria
Defence Bank Limited	Select Credit Union Ltd
Delphi Bank	Service One Credit Union Limited
EECU Limited	Shell Employees' Credit Union Limited
eMerchants Limited	South West Slopes Credit Union Ltd
Encompass Credit Union Limited	South-West Credit Union Co-Operative Limited
Family First Credit Union Limited	Sutherland Credit Union Ltd
Fire Brigades Employees' Credit Union Limited	Swan Hill Credit Union Limited
Fire Service Credit Union Limited	Sydney Credit Union Ltd
Firefighters and Affiliates Credit Co-Operative Limited	Teachers Mutual Bank Limited
First Choice Credit Union Ltd	The Broken Hill Community Credit Union Ltd
First Option Credit Union Limited	The Capricornian Ltd

Ford Co-operative Credit Society Limited	The University Credit Society Limited
Goldfields Money Limited	Traditional Credit Union Limited
Goulburn Murray Credit Union Co-Operative Limited	Transport Mutual Credit Union Limited
Greater Building Society Ltd	VIRGIN MONEY
Heritage Isle Credit Union Limited	Vision Super Pty Ltd
Holiday Coast Credit Union Ltd	Warwick Credit Union Ltd
Horizon Credit Union Ltd	WAW Credit Union Co-Operative Limited
Intech Credit Union Limited	Woolworths Employees' Credit Union Limited
Laboratories Credit Union Limited	Wyong Shire Credit Union Ltd

ATTACHMENT 2

A copy of the Reserve Bank of Australia's letter of 27 May 2014 addressed to the ACCC regarding Cashcard Australia Limited and authorisation A91429 is attached below.



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ADDITIONAL INFORMATION

rediATM Scheme Rules

A copy of the **rediATM Advisory Council Charter and Scheme Rules** is attached below.

Cuscal requests that it should be excluded from the ACCC's public register.



rediATM Advisory
Council Chart...

DIRECTIONS

1. Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.
2. Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
3. In item 1 (b), describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding, or the relevant conduct, in respect of which substitute authorisation is sought.
4. In completing this form, provide details of the contract, arrangement or understanding (whether proposed or actual), or the relevant conduct, in respect of which substitute authorisation is sought.
 - (a) to the extent that the contract, arrangement or understanding, or the relevant conduct, has been reduced to writing — provide a true copy of the writing; and
 - (b) to the extent that the contract, arrangement or understanding, or the relevant conduct, has not been reduced to writing — provide a full and correct description of the particulars that have not been reduced to writing; and
 - (c) If substitute authorisation is sought for a contract, arrangement or understanding (whether proposed or actual) which may contain an exclusionary provision — provide details of that provision.
5. Where substitute authorisation is sought on behalf of other parties provide details of each of those parties including names, addresses, descriptions of the business activities engaged in relating to the subject matter of the authorisation, and evidence of the party's consent to authorisation being sought on their behalf.
6. Provide details of those public benefits claimed to result or to be likely to result from the contract, arrangement or understanding (whether proposed or actual), or the relevant conduct, including quantification of those benefits where possible.
7. Provide details of the market(s) likely to be affected by the contract, arrangement or understanding (whether proposed or actual), in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the application for substitute authorisation.
8. Provide details of the detriments to the public, including those resulting from the lessening of competition, which may result from the contract, arrangement or understanding (whether proposed or actual). Provide quantification of those detriments where possible.
9. Where the application is made also in respect of other contracts, arrangements or understandings, which are or will be in similar terms to the contract, arrangement or understanding referred to in item 2, furnish with the application details of the manner in which those contracts, arrangements or understandings vary in their terms from the contract, arrangements or understanding referred to in item 2.



Payments Policy Department

T: (02) 9551 8024
F: (02) 9551 8024
E: payments@rba.gov.au
www.rba.gov.au

27 May 2014

Ms Megan Cunningham
Senior Project Officer Adjudication Branch
Australian Competition & Consumer Commission
360 Elizabeth Street
Melbourne 3000

Dear Ms Cunningham

Cashcard Australia Limited - application for revocation of authorisation A91119 and substitution of new authorisation A91429

The Reserve Bank of Australia (RBA) has examined the information provided by the ACCC regarding Cashcard's proposed re-authorisation. The RBA notes that the Cashcard proposal regards current and future FeeSmart Network members agreeing not to directly charge each other's cardholders for transactions undertaken at other FeeSmart Network member's ATMs. The RBA considers the proposed re-authorisation is consistent with the intent of the *Access Regime for the ATM System* for sub-networks and will not introduce additional competition or efficiency issues based on the current market. Accordingly, the RBA has no objection to the re-authorisation.

The Australian ATM system comprises a number of linked ATM 'networks'. Around half of the ATMs are part of networks operated by large financial institutions with the other half provided by independent deployers.¹ The RBA considers that the ability to use ATMs of other networks is an important public benefit, providing cardholders with choice and convenience, as well as helping promote competition between financial institutions.

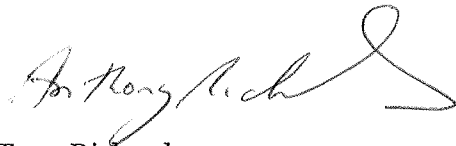
In the ATM system, large financial institutions have the ability to provide their cardholders with fee-free transactions through a large network of ATMs. This may offer an advantage because ATM owners do not charge their own cardholders for ATM use, but charge a direct fee to other financial institution cardholders for using their ATMs. As the *Access Regime for the ATM System* generally prevents interchange fees between participants in the ATM system, ATM owners apply direct fees in this instance to recover their costs. The RBA notes the charging of direct fees allows a transparent arrangement which is subject to competition.

To compete, smaller financial institutions may seek to form sub-networks (such as the FeeSmart Network) to facilitate access to a larger network of ATMs than they could provide themselves. In addition, the *Access Regime for the ATM System* allows payment of multilateral interchange fees between sub-network members. The payment of interchange fees reduces the incentive for

¹ The Australian Government the Treasury and the Reserve Bank of Australia, *ATM Taskforce – Report on Transparency and Competition*, 30 June 2011, p. 3.

sub-network members to charge direct fees to each other's cardholders for transactions undertaken at each other's ATMs. This allows the sub-network members to compete with large financial institutions by providing their customers with access to a larger network of fee-free ATMs, providing their customers with more choice and convenience. Accordingly, the RBA considers that the Cashcard re-authorisation would not be detrimental to competition in the ATM system.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tony Richards', with a large, stylized flourish at the end.

Tony Richards
Head of Payments Policy