
Updated application for variation of authorisation by the Australian Banking Association on behalf of its member retail banks

Application

1 Provide details of the applicants for a variation of authorisation, including:

1.1 name, address (registered office), telephone number and ACN

Australian Banking Association (ACN 117 262 978)

Level 18, 6 O'Connell Street, Sydney 2000

Ph: (02) 8298 0417

PO Box H218, Australia Square, NSW 1215

1.2 contact person's name, position, telephone number and email address

ABA

Steve Blinkhorn

[REDACTED]

[REDACTED]

Legal representatives

Tanya Macdonald

Partner, Gilbert + Tobin

[REDACTED]

[REDACTED]

Richard L'Estrange

Special Counsel, Gilbert + Tobin

[REDACTED]

[REDACTED]

1.3 a description of business activities

The ABA provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services.

For further information, please see section 1 of the submission in support of application for minor variation ([Minor Variation Submission](#)).

1.4 email address for service of documents in Australia.

[REDACTED]

Authorisation to be varied

2 Provide details of the authorisation to be varied including:

2.1 registration number and date of the authorisation which is to be varied

The ABA is seeking a minor variation of authorisation AA1000441-1, which was granted pursuant to the Final Determination issued on 21 November 2019 ([2019 Authorisation](#)).

2.2 other persons and/or classes of persons who are a party to the authorisation which is to be varied.

The ABA applied for authorisation on behalf of 20 Member Banks with retail banking businesses in Australia, who subscribed to the 2019 Banking Code of Practice. These Member Banks are listed in paragraph 1.11 of the Final Determination in respect of the 2019 Authorisation.

Proposed variation

3 Provide details of the proposed variation, including:

3.1 a description of the proposed variation;

Please see section 3.3 of the Minor Variation Submission.

3.2 the reasons for the proposed variation;

Please see section 0 of the Minor Variation Submission.

3.3 reasons why the proposed variation is minor.

Please see sections 3.1 to 0 of the Minor Variation Submission.

Competition effects or net public benefit

4 The ACCC will assess whether to grant a minor variation to an authorisation depending upon the basis on which the ACCC originally decided to grant the authorisation. As applicable, describe the effect of the proposed variation on:

4.1 competition in the relevant markets or

Please see sections 4.1 to 4.5 of the Minor Variation Submission.

4.2 the extent to which the benefit to the public outweighs any detriment to the public.

Please see sections 4.1 to 4.5 of the Minor Variation Submission.

4.3 Provide information, data, documents or other evidence relevant to the ACCC's assessment of the competition effects or net public benefit.

Please see section 4.2 of the Minor Variation Submission.

Contact details of relevant market participants

5 Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.

The ABA notes that it has commenced engagement with the Australian Securities and Investments Commission (**ASIC**) in relation to the proposed updated Banking Code of Practice. Contact details in relation to ASIC personnel are as follows:

- Jennifer Lyons – [REDACTED]

- Lawrence Drew – [REDACTED]

Additional information

- 6 Provide any other information or documents you consider relevant to the ACCC's assessment of the application.**

All information relevant to the ACCC's assessment of the application is provided within the Minor Variation Submission attached to this form.

Declaration by Applicant

Authorised persons of the applicant(s) must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each applicant.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).

Signature of authorised person

A large grey rectangular redaction box covers the signature area.

Amanda Pullinger

Head of Customer Policy

This 8th day of December 2023



The Australian Banking Association (ABA) on behalf of ABA member banks

Updated application for minor variation of
authorisation AA1000441

7 December 2023

1 Applicants

1.1 ABA

The ABA provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services.

The ABA benefits from the active participation of 20 member banks in Australia (**Member Banks**) and works with government, regulators and other stakeholders to ensure Australia's banking customers continue to benefit from a prudentially stable, competitive and accessible banking industry.

1.2 Applicants

The ABA seeks the minor variation set out in this application on behalf of its retail Member Banks and future retail Member Banks (**Applicants**).

The ABA's retail Member Banks at the time of the 2019 Authorisation are listed in paragraph 1.11 of the Final Determination.¹

2 Authorisation to be varied

This application for minor variation relates to authorisation AA1000441-1 (**2019 Authorisation**).

The 2019 Authorisation concerns the implementation of certain sections of the 2019 Banking Code of Practice relating to:

- informal overdrafts, dishonour fees, and default interest charged on loans secured by agricultural land; and
- prescribing certain minimum requirements relating to basic bank accounts.²

The Authorisation has been granted until 12 December 2024.

For completeness, we note that this is an updated version of the application for minor variation of the 2019 Authorisation that was lodged on 29 September 2023.

3 Proposed minor variation

3.1 Background

There has been a banking code of practice in Australia, overseen by the ABA, since 1993. The code sets out standards of practice and service for Australian banks in relation to individual and small business consumers.

The current version of the banking code of practice became binding on all ABA Member

¹ See ACCC, Final Determination, *Application for authorisation lodged by the Australian Banking Association in respect of certain amendments to the 2019 Banking Code Authorisation number: AA1000661*, 21 November 2019, p. 2 – 3.

² See ACCC public register: <https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/the-australian-banking-association>

Banks with a retail presence in Australia on 1 July 2019 (**Banking Code**).

The 2019 Authorisation related to the implementation of changes to the **Banking Code** arising from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (**Royal Commission**).

These changes and the authorised conduct related to:

- banks not allowing informal overdrafts on Basic Bank Accounts (**BBAs**), low or no fee accounts held by low income customers without prior express agreement with the customer;
- banks not charging dishonour fees or overdrawn fees on BBAs, low or no fee accounts held by low income customers; and
- banks not charging default interest on loans secured by agricultural land in drought affected or other natural disaster areas while a declaration remains in force.

In addition, the following conduct was also authorised:

- prescribing certain minimum requirements relating to BBAs, when a Member Bank elects to offer a BBA (**BBA Minimum Standards**); and
- setting minimum eligibility criteria for basic accounts including BBAs, low fee and no fee accounts.

The above authorised conduct was authorised subject to various conditions.

3.2 Recent developments

The Banking Code is independently reviewed on a periodic basis in consultation with consumer representatives, small business organisations and other stakeholders to ensure it is operating as effectively as possible.

Further to the Independent Review of the Banking Code of Practice 2021 Final Report³ (**Independent Review**), the ABA proposes to make certain updates to the Code consistent with the Review's findings and recommendations.

These updates include a minor change to clause 44B(e) of the Code, for which the ABA seeks a minor variation.

3.3 Proposed minor variation

Clause 44B(e) of the Banking Code provides that one of the minimum requirements in respect of a BBA (if offered) is access to a debit card (such as eftpos) or a scheme debit card (such as Visa Debit or Mastercard Debit) at no extra cost.

As part of the updates to the Banking Code, it is proposed that clause 44B(e) is broadened to provide for emerging developments in relation to payments methods technology. The requirement to offer a debit card will remain in the Banking Code and will be unaffected.

³ Australian Banking Association, *Independent Review of the Banking Code of Practice 2021*, November 2021. Available at: <https://www.ausbanking.org.au/wp-content/uploads/2021/12/Final-Report-Banking-Code-of-Practice-Review-2021.pdf>.

The Applicants seek the following minor variation to clause 44B(e):

Basic accounts have, at a minimum:

[...]

- e. *Access to your choice of a ~~widely accepted debit card (such as eftpos) or a scheme debit card (such as Visa Debit or Mastercard Debit)~~ payment method (including a debit card) offered by us on your basic bank account at no extra cost.*

(proposed minor variation)

The proposed minor variation to clause 44B(e) is not material and has no substantive effect on the conduct covered by the 2019 Authorisation. Customers who are eligible for a BBA will continue to be offered access to a debit card at no extra cost and may, *in addition*, be offered other widely accepted debit payment methods. The type of debit payment methods will be broadened as a result of the proposed changes.

3.4 Rationale for variation

The proposed minor variation to clause 44B(e) is being made for the following reasons:

- Reserve Bank of Australia (RBA) policy in favour of dual-network debit cards (DNDCs)

Following the RBA's Review of Retail Payments Regulation Conclusions Paper⁴, the RBA stated its expectation that all banks with more than 1% of the debit market by value would issue DNDCs (ie cards supporting eftpos AND Mastercard/Visa) – as opposed to single-network debit cards (**SNDCs**) (ie cards supporting only one of eftpos or Mastercard/Visa).

The RBA policy supports least cost routing (**LCR**), which aims to enhance competition in the supply of debit card acceptance services and reduce payment costs for businesses by allowing them to choose the lowest cost network to process their transactions.

The proposed minor variation and removal of reference to “*debit card [...] OR scheme debit card*” (emphasis added) is intended to support the issuance of DNDCs, consistent with the RBA's policy.

- Future-proofing payments and customer choice

As set out in further detail below, the card-based payment schemes landscape has evolved rapidly and will continue to do so, with customer preferences potentially shifting from a choice of debit cards to a choice of payment methods (eg mobile wallets).⁵

⁴ Reserve Bank of Australia, *Review of Retail Payments Regulation Conclusions Paper*, October 2021. Available at: <https://www.rba.gov.au/payments-and-infrastructure/review-of-retail-payments-regulation/conclusions-paper-202110/>

⁵ See ABA Bank on It: Customer Trends 2023 Report, p 30. Available here: <https://www.ausbanking.org.au/wp-content/uploads/2023/06/Bank-On-It-%E2%80%93-Customer-Trends-2023-1.pdf>.

The proposed minor variation provides more flexibility in relation to alternative and emerging payment methods and facilitates increased customer choice.

- Technology neutral

The proposed minor variation aligns with recommendation 22 of the Independent Review to amend the Code to be technology neutral, where possible, to ensure that the terminology of the Banking Code is up to date.

4 No effect on competition and no reduction of net public benefits

4.1 Public benefits supporting 2019 Authorisation

In its Final Determination relating to the 2019 Authorisation, the ACCC considered that the minimum requirements relating to BBAs had the potential to result in public benefits by (among other things):

- ensuring banks' compliance with minimum community expectations and standards for transaction and account features;
- greater certainty and protection for customers that BBA products offered by Member Banks will meet minimum standards;
- increased availability of higher quality BBA products through standardised minimum requirements;
- raising the standard of the average BBA offering; and
- improved availability of accessible and affordable banking, consistent with the objective of the Royal Commission's recommendations.⁶

4.2 Increased public benefits arising from minor variation

The proposed minor variation will not result in any reduction of the public benefits, as described above.

In fact, the proposed minor variation will further support and strengthen the potential benefits identified by the ACCC, by:

- facilitating the delivery of DNDCs as a feature of BBAs and benefits of LCR;
- increasing the availability of higher quality BBA products, which include technological developments and evolving community expectations and needs. For example, the amendment will:
 - support the use of "mobile wallets", which allow consumers to digitally "store" their cards on a mobile device (eg a phone). The popularity of mobile wallets has grown exponentially since the 2019 Authorisation, increasing from \$746 million in 2018 to more than \$93 billion in 2022. Similarly, the number of cards

⁶ ACCC, Final Determination, *Application for authorisation lodged by the Australian Banking Association in respect of certain amendments to the 2019 Banking Code Authorisation number: AA1000661*, 21 November 2019, p. 22.

that were registered to mobile wallets rose from just over 2 million to 15.3 million over the same period; and⁷

- support the use of online payments. Facilitating the delivery of DNDCs will enhance access to online payments, noting that historically some retailers have not accepted SNDCs for online payments. Since 2019, there has been an 81% increase in online retail sales as share of total retail sales.⁸

Data is provided in **Annexure A** regarding:

- the value of mobile wallet transactions;
- the number of mobile wallet transactions;
- the number of cards registered to a mobile wallet;
- mobile device and app payments as a share of online payments; and
- the increase in online payments.

This data, which demonstrates the increasing digitisation of payments, supports the need for flexibility in relation to debit payment methods, notwithstanding that access to a traditional physical debit card will continue to be offered.

4.3 Public detriments at the time of the 2019 Authorisation

In its Final Determination relating to the 2019 Authorisation the ACCC considered that the minimum requirements were likely to have limited impact on competition in relation to basic accounts, including because:

- there was limited competition between banks in relation to basic accounts offered to low income customers, and banks appeared to be motivated by reasons of social responsibility rather than profit in offering and improving these products; and
- the proposed standards did not set a lower benchmark for features across all BBAs on these accounts compared to the features already offered on BBAs individually.

4.4 No change to public detriments assessment

The proposed minor variation will not result in any change regarding the assessment of limited (if any) public detriments.

In addition the ABA notes that:

- Member Banks that choose to offer a BBA remain free to determine what "widely accepted payment method" they will offer – ie it is not prescriptive other than the requirement to offer a debit card; and
- Member Banks continue to be free to compete in offering *additional* features in relation to basic accounts.

⁷ ABA Bank on It: Customer Trends 2023 Report, p 3.

⁸ ABA Bank on It: Customer Trends 2023 Report, p 28.

4.5 No adverse effect on competition in the relevant markets

For the reasons set out above, the proposed minor variation will not have any adverse effects on competition in any relevant market.

Annexure A – Supporting data

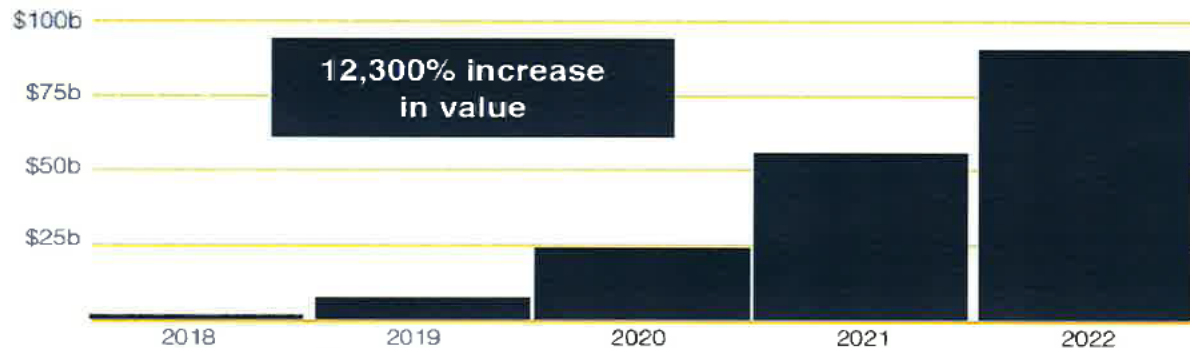
Extracts from "Bank On It: Customer Trends 2023" regarding mobile payments using mobile wallets and merchant apps

Customers are choosing to make mobile payments using mobile wallets and merchant apps for a seamless experience

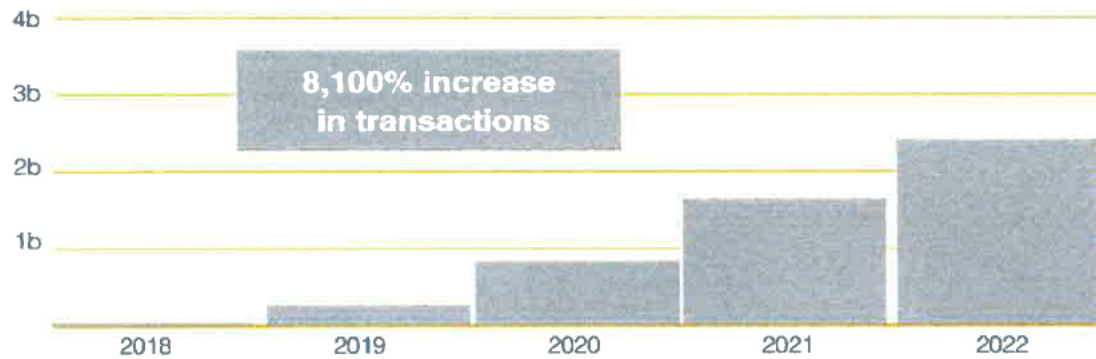
- Mobile wallets allow consumers to digitally 'store' their cards on a mobile device (e.g. phone or smart watch), which is then used to make contactless payments.

Customers are increasingly using mobile wallets...

Value of mobile wallet transactions (\$)

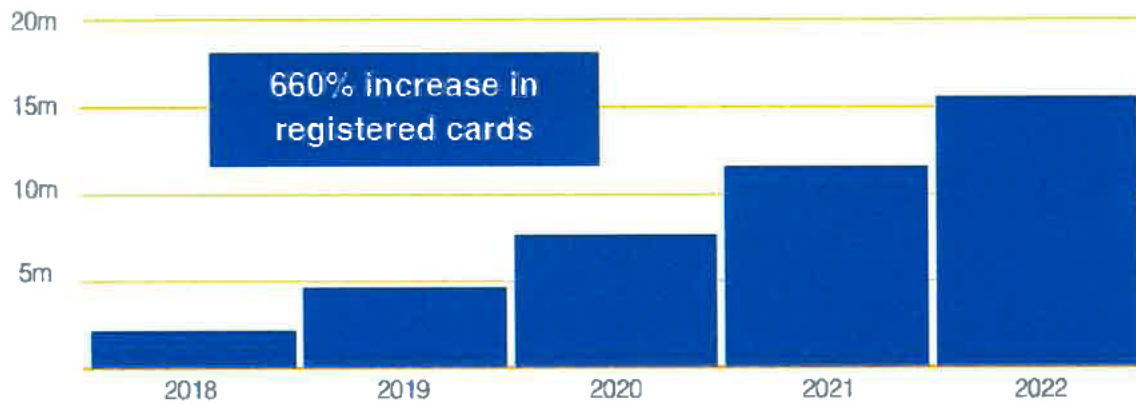


Number of mobile wallet transactions (#)



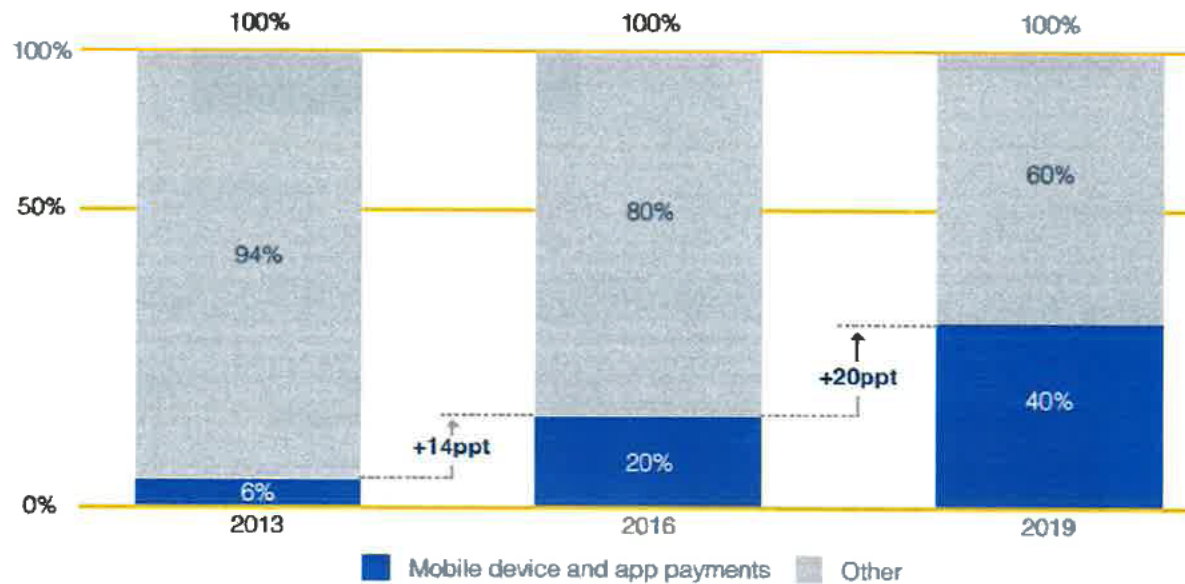
Source: ABA Member Survey (2023), RBA Payment Systems Board Annual Report (2022), RBA Consumer Payment Behaviour in Australia: Evidence from the 2019 Consumer Payments Survey (2020)
 Note: Other includes transactions not paid through a mobile device or app, e.g. through providing card details through a desktop browser.

Number of cards registered to a mobile wallet (#)



...especially to make online payments via mobile devices

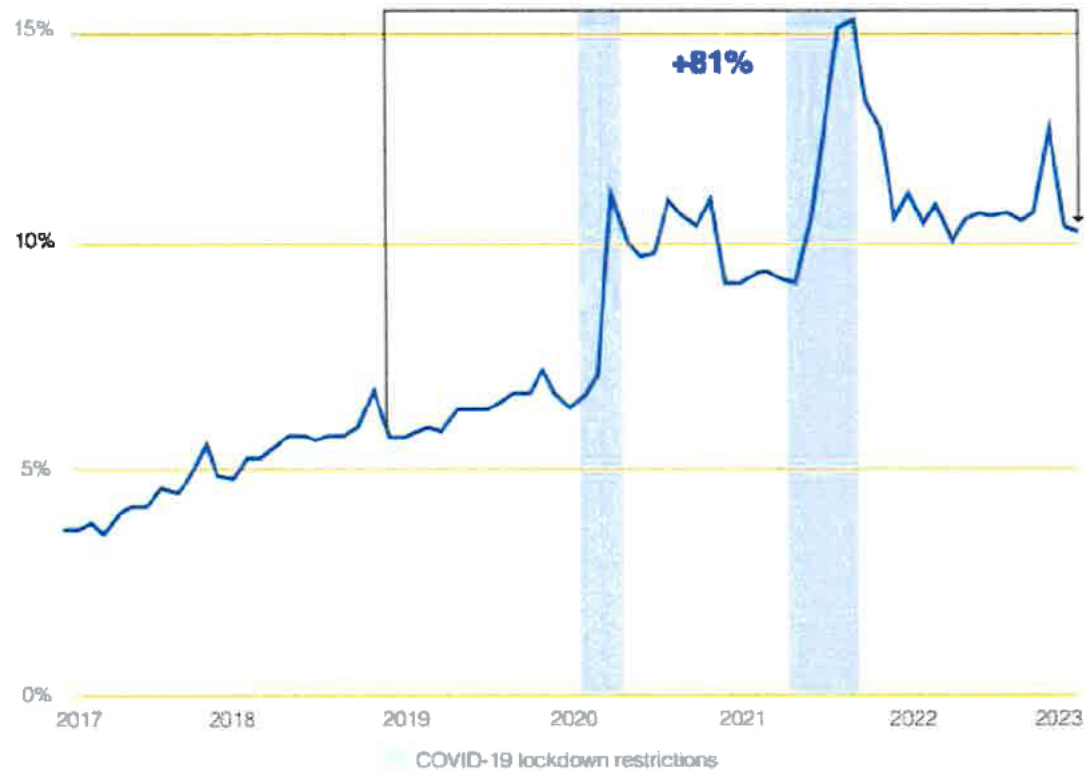
Mobile device and app payments as share of online payments (%)



Sources: RBA Payment Systems Board Annual Report (2022), RBA Consumer Payment Behaviour in Australia: Evidence from the 2019 Consumer Payments Survey (2020)
Note: Other includes transactions not paid through a mobile device or app, e.g. through providing card details through a desktop browser.

eCommerce a big driver of growth in remote card payments

Online retail sales as share of total retail sales (%)



Source: ABS Retail Trade Australia 2023.
Note: National lockdown from May to July 2020, lockdown in Victoria, ACT and NSW from September to November 2021.

