PAYMENTS SYSTEM REVIEW

RESPONSE TO ISSUES PAPER

December 2020

EXECUTIVE SUMMARY

1. ANZ thanks Treasury for the opportunity to make a submission to the Payments System Review (the **Review**).

2. We welcome the Review. It comes after a period of sustained change, development and innovation in the payments system. The origins of today's regulatory regime date back to 1998 in response to the Wallis Financial System Inquiry. It is appropriate that, more than 20 years later, the Government take stock of the regulatory architecture of the payments system to ensure it remains fit for purpose and can support new developments and innovations to the benefit of end-users, industry and the economy.

3. The Australian payments system has performed well since the regime's inception. Consumers and businesses have readily adopted and benefited from the availability of new technologies; levels of trust in the system are high; and industry can compete fairly and continues to innovate. As the Review's Issues Paper identifies, this is evidenced by a continued rise of electronic and mobile payments, the adoption of new payments technologies by consumers, and the entry of major technology players and innovators into the payments market.

4. ANZ has been an active participant in providing access to new payments technology, including as the first Australian bank to provide customers access to Apple Pay. We continue to provide our customers with access to new and innovative payments technology. On 15 December 2020, we announced that we will enter a joint-venture with European-based payments organisation, Worldline. As part of the joint-venture, ANZ will provide small business, commercial and institutional customers access to new technology for fast, reliable and more secure point-of-sale and online payments.[1]

5. Industry participants and the payments system regulators, principally the Reserve Bank of Australia (**RBA**), have worked well together under a co-regulatory model. This is particularly so when industry and regulators have coalesced around a strategy with clear aims and expectations. Recent experience has demonstrated that a clear agenda, combined with open dialogue and a deep understanding of impacts across the system, can result in both industry and regulators delivering benefits and new capabilities to end users.

6. As the payments system continues to evolve, the regulatory architecture must balance the stability and security of the system, competition and innovation, and consumer protection:

    - The stability, security and resilience of the system remains key to its operation. The payments system is critical to the operation of the broader economy, particularly as reliance on payments technology has never been higher.

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[1] ANZ Media Release, 15 December 2020, https://media.anz.com/posts/2020/12/anz-enters-joint-venture-with-worldline-to-provide-australian-bu

- An environment that encourages competition, innovation and a level playing field for new entrants will continue to drive industry investment and benefits to end users.

- Consumer protection remains vital, particularly as new products and innovations continue to emerge.

7. To help the Review consider how to balance these points, we make some observations below regarding:

   - Today's co-regulatory model, self-regulation and the number of regulatory bodies supervising industry participants; and

   - New developments in the payments system, considering:

     - The system's stability, resilience and security;

     - New technologies and related developments; and

     - Consumer protection.

8. We would welcome further discussions with the Review as it progresses its thinking about these issues.

TODAY’S REGULATORY REGIME

A co-regulatory model

9. The Australian payments system effectively operates under a co-regulatory model; the RBA sets high-level principles and policy objectives, and industry has focused on implementing these objectives through self-regulation.

10. The regulatory regime established by the Parliament in 1998 affords the RBA extensive powers to promote efficiency, competition and stability in the payments system.

    - The *Reserve Bank Act 1959* (Cth) requires the Payments System Board (**PSB**) to determine payments system policy in a way that will best contribute to controlling risk in the financial system; promoting the efficiency of the payments system; and promoting competition in the market for payment services, consistent with the overall stability of the financial system.

    - The *Payments Systems (Regulation) Act 1998* (Cth) gives the RBA power to designate payment systems if doing so is in the public interest. Once designated, the RBA has powers to impose access regimes, make standards, arbitrate disputes and give directions to those systems.

    - The *Payment Systems and Netting Act 1998* (Cth) allows the RBA to exercise certain powers if it considers that systemic disruption to the financial system could otherwise result.

11. Consistent with this intent of Parliament, industry should operate through self-regulation insofar as this promotes an efficient, competitive and stable payments system, 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 Australian Payments Council (**APC**) and the Australian Payments Network (**AusPayNet**), the self-regulatory body for the Australian payments system.

12. The Australian payments system has performed well under this co-regulatory model. The payments system regulatory architecture should continue to encourage industry participants and regulators to work together to further advance the system. When industry participants and regulators have coalesced around clear aims and expectations, new capabilities and benefits have flowed to end users.

13. This was demonstrated through the 2018 launch of the New Payments Platform (**NPP**). This saw industry and the RBA collaborate to establish the real-time, instant payments platform. An industry committee proposal to develop the NPP followed the release of the conclusions of the RBA’s 2012 Strategic Review of Innovation in the Payments System.

This set out a series of strategic objectives for the Australian payments system and led to the development of the new platform.[2]

Self-regulation

14. Industry self-regulation has been an effective element of the co-regulatory model in the Australian payments system. It has been advantageous to the operation of the payments system as the system requires a level of cooperation between industry participants. An industry self-regulating organisation, such as AusPayNet, can develop and pursue common objectives (in accordance with competition law constraints).

15. This includes building public trust in the payments system through agreeing and standardising levels of:

    - System security;
    - Compliance; and
    - Reliability.

16. Self-regulation has also facilitated significant industry investment in payments infrastructure and services, such the NPP, BPAY and Osko. The presence of the extensive regulatory powers provided to the RBA by the Parliament encourages an effective self-regulatory approach.

The need for regulatory delineation and coordination

17. The RBA's role in the payments system has been an important feature of the performance of the system to date. It has built significant payments expertise as the primary regulator of the system.

18. However, the system is also subject to oversight from other regulators including the Australian Securities and Investments Commission (**ASIC**), the Australian Transaction Reports and Analysis Centre (**AUSTRAC**), the Department of Foreign Affairs and Trade (**DFAT**), the Australian Competition and Consumer Commission (**ACCC**), and the Australian Prudential Regulation Authority (**APRA**).

19. These regulators share responsibility for regulating particular elements or uses of the payments system:

[2] RBA, June 2012, https://www.rba.gov.au/payments-and-infrastructure/payments-system-regulation/past-regulatory-reviews/strategic-review-of-innovation-in-the-payments-system/conclusions/

- The RBA runs the settlement system and supervises the domestic and cross-border payments markets;
- AUSTRAC is responsible for compliance with Anti-Money Laundering and Counter-Terrorism Financing (**AML/CTF**) laws;
- DFAT oversees sanctions compliance;
- The ACCC considers competition matters and certain consumer outcomes;
- APRA authorises and supervises large purchases payment facility providers; and
- ASIC manages licensing arrangements for operators of clearing and settlement facilities in Australia and the ePayments Code.

20. A regulated market that is subject to oversight from a number of regulatory bodies benefits from clarity concerning the roles and responsibilities of each regulator, as well as the interactions between regulators, to ensure efficiency, and that competition and innovation is encouraged.

RESPONDING TO NEW DEVELOPMENTS

22. The payments system has witnessed significant change in recent years. New technologies and industry participants continue to emerge and consumer preferences continue to shift. The system's regulatory architecture should allow for and encourage these new developments, while continuing to ensure the stability, resilience and security of the system, and suitable consumer protections.

23. The Australian payments system regulatory architecture should continue to allow for:

    - Government to set principles and high level objectives for the system;
    - The primary payments system regulator (the RBA) to operate and work with industry under a co-regulatory model to establish a clear agenda in line with the principles and high level objectives set by Government; and
    - Industry to collaborate to deliver this agenda to the benefit of the system and end users.

Stability, resilience and security

24. Ensuring the stability, resilience and security of the payments system should continue to be a core consideration of the regulatory architecture of the system. As the payments system is involved in nearly all economic transactions, ensuring its overall stability and efficiency is critical. Australian businesses and consumers rely on the functioning of the payments system in their day to day transactions and must have confidence in the system. New technologies and innovations present both opportunities and risks to the stability, resilience and security of the system.

25. The regulatory architecture should continue its focus on promoting the safety and efficiency of the payments system, and reducing systemic risk.

New technologies and related developments

26. In light of new and emerging technologies and developments in the payments system, consideration should be given to the increasing likelihood that other technologies and developments will become more deeply linked and connected to the payments system.

27. Interactions between payments regulators and other regulatory regimes governing these new technologies and developments will be of great importance. New or emerging developments which could result in linkages with the payments system could include the consumer data right (including open banking) and digital ID initiatives. Existing or emerging regulators of regimes such as these are likely to interact with payments system participants, as could the Australian privacy regime if payments technology begins to include a greater transfer of personal data. How such regulators and regulatory regimes interact would require further consideration to provide clarity and certainty for regulators and industry participants.

Consumer protection

28. New technologies and new entrants to the payments system present opportunities for consumers and other end users. However, these new developments also create risks for consumers, and present challenges for existing consumer protection regimes.

29. For example, frauds and scams are fast moving and frequently changing. This is evidenced by the pace at which scammers and other bad faith actors have moved to take advantage of the COVID-19 crisis, during which some consumers have been adopting or increasingly using electronic payments.

30. The fast moving nature of fraud and scams, as well as new technology advances, requires that consumer protection regimes continue to be fit for purpose. We note that in March 2019 ASIC commenced a review into the ePayments Code, which included consideration of options for 'future-proofing the Code' in response to significant developments in the payments system.[3] The Code was previously subject to a detailed review in 2010.

ENDS

[3] CP 310 Review of the ePayments Code: Scope of the Review, 6 March 2019, https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-049mr-asic-consults-on-coverage-of-epayments-code-review/