

7 February 2023

Taylor Black
Director
Payments Strategy and Policy Unit
The Treasury
Submitted via email to: paymentsconsultation@treasury.gov.au

Dear Mr Black,

A Strategic Plan for the Payments System, Consultation Paper December 2022

The Australian Finance Industry Association (AFIA)¹ appreciates the opportunity to comment on the consultation paper on the *Strategic Plan for the Payments System, December 2022* (Consultation Paper').

AFIA is the only peak body representing the entire finance industry in Australia. We represent over 150 providers of consumer, commercial and wholesale finance in Australia, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry.

We are the voice for advancing a world-class finance industry, with our members who are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

SUBMISSION

Consumer payment patterns in Australia have shifted substantially since previous major reviews of the Australian financial system². The shift of payments away from cash and cheque towards digital payments accelerated further during the COVID-19 pandemic. As noted by Michelle Bullock, the Deputy Governor of the Reserve Bank of Australia, the evolution of the payments system³ towards an ecosystem has divided up the transaction chain between more and more players. Non-banks, both lenders and others,

¹ www.afia.asn.au

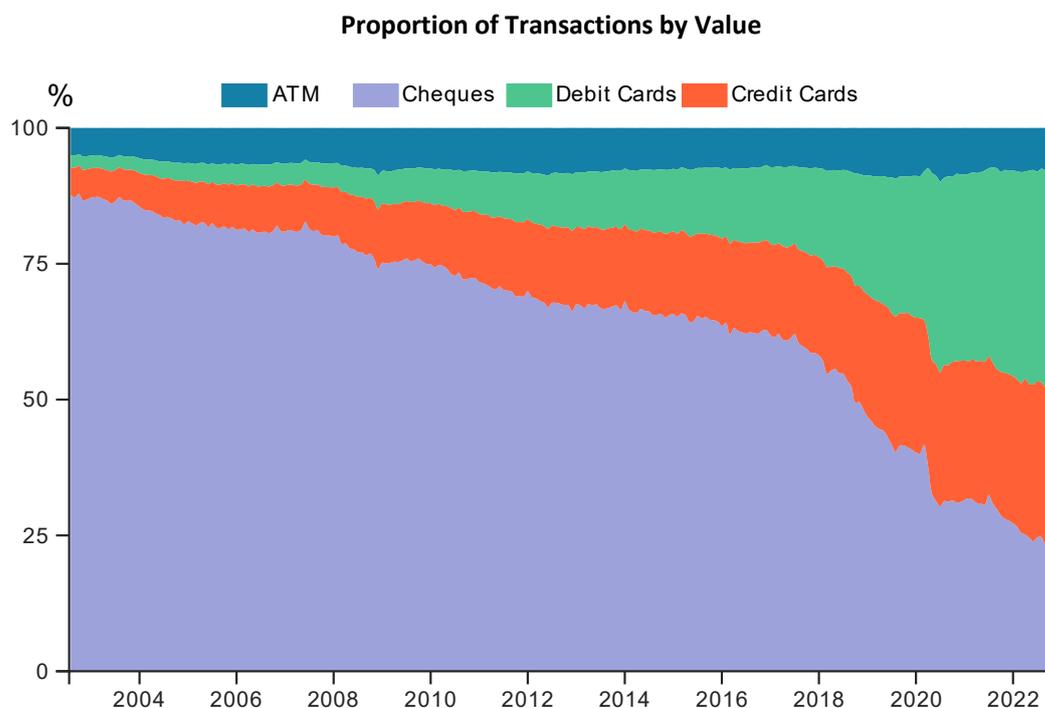
² Including the Wallis Inquiry (Steven Wallis, *Financial System Inquiry Final Report* (1997), <<https://treasury.gov.au/publication/p1996-fsi-fr>>) and the Payments System Review (Treasury, *Payments system review: From system to ecosystem* (2021), <<https://treasury.gov.au/publication/p2021-198587>>).

³ "payment system" is defined as a "...a funds transfer system that facilitates the circulation of money, and includes any instruments and procedures that relate to the system" – see *Payment Systems (Regulation) Act 1988*, s 7.

are playing roles that have traditionally been the domain of ADIs in the provision of a range of payment facilities, services and products.⁴

The Consultation Paper also highlights how an increasing share of payments by value is now made electronically, rather than in cash. The value of cheque payments peaked in early 2009⁵ and has since been supplanted by payment cards, while debit cards surpassed cash as the single most used transaction method in 2017.⁶ Adoption of the New Payments Platform (NPP)⁷ as an eventual replacement for the Direct Entry System has begun, pointing to a future of real time and data-enhanced consumer and commercial transactions.

The following charts highlight the change in the proportion (in dollar terms) of retail payment methods over the last two decades, as well as the gradual shift from the Direct Entry system to the NPP over the last 5 years.

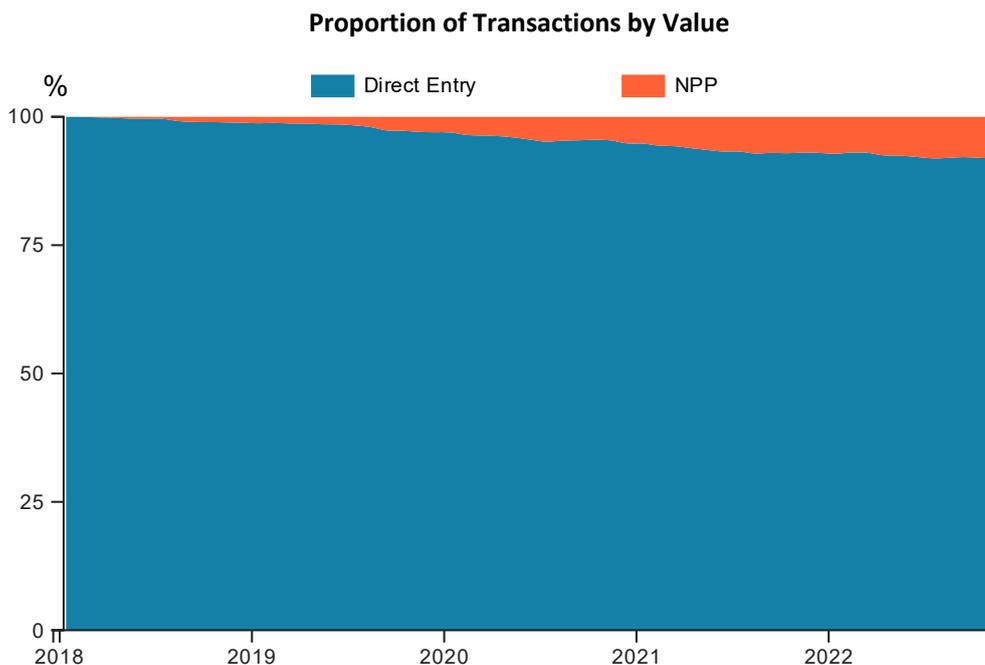


⁴ Michelle Bullock, Deputy Governor, Reserve Bank of Australia, *Transcript of Speech and Q&A Session, Panel Participation at the Regulators 2022 (FINSIA)* (2022), <<https://www.rba.gov.au/speeches/2022/sp-dg-2022-05-13-q-and-a-transcript.html>>.

⁵ Reserve Bank of Australia, *Payments Statistics, C5: Cheques – Seasonally Adjusted Series*, <<https://www.rba.gov.au/payments-and-infrastructure/resources/payments-data.html>>.

⁶ Reserve Bank of Australia, *Payments System Board Annual Report 2022* (2022), Graph 2.1, p 16, <<https://www.rba.gov.au/publications/annual-reports/psb/2022>>.

⁷ Osko consumers and businesses can make sub-minute 24-hour transactions with attached data; PayID, payment addressing using phone number, email address or ABN; PayTo, merchant-initiated, not yet rolled out.



The digitisation of physical transactions and the upgrade of existing systems continues to present ongoing opportunities for innovation in payment service provision. Barriers to entry are lower and scope for new features and business models is wider.

This environment is creating opportunities to maximise choice in and access to payment facilities, financial products and services, and to foster competition and innovation, including attracting new entrants into our financial system. This is providing Australian consumers and small businesses with convenient, simple, and efficient payment options which in turn supports greater financial, and therefore social, participation across our community.

Digital wallets⁸ and Buy-Now-Pay-Later (BNPL) products are more recent examples of innovation and competition in the payments space. BNPL represents a small, but rapidly growing part of Australia's payments ecosystem. According to the Reserve Bank of Australia (RBA), BNPL transactions grew by approximately 37 per cent in 2021-22 to \$16 billion.⁹ This is around two per cent the value of transactions across the Australian payments system.¹⁰ AFIA code signatories administer approximately 6.32 million active BNPL accounts in Australia.¹¹

Coupled with further innovation being made possible by the introduction of action initiation as the next frontier of the consumer data right (CDR) system, it is important to act quickly to establish a vision for a payments regulatory framework that supports innovation and competition into the future.

⁸ For example, Apple Pay, Google Pay, Samsung Pay and WePay.

⁹ Op. cit. n 6, p 18.

¹⁰ Ibid.

¹¹ Data reported to AFIA for code compliance purposes.

Regulation that is fit for the future

One of AFIA's strategic priorities is to advocate for a regulatory framework that is fit for the future. In the case of payments there is an inconsistent application of regulation and blind spots in regulatory supervision. While AFIA members who participate in the payments system are subject to a vast array of regulatory and self-regulatory obligations, including prudential, market conduct and credit law obligations other participants in the ecosystem do not. As the Deputy Governor of the RBA has pointed out, many participants in the payments system (such as gateways, mobile wallet providers, payment facilitators) are not captured by RBA's regulatory powers but play a 'critical role in ensuring that payments are safe, secure, and efficient'.¹²

In previous submissions AFIA has recommended that regulation of payments should:

1. Be targeted and right sized – proportionate, scalable, and functions-based.
2. Support competition and innovation, specifically, ensuring open access to facilitate mobile and contactless payments and telecommunications infrastructure providers do not have an unfair advantage or ability to limit competition and innovation in payments and financial services in Australia.
3. Balance financial stability and consumer protection, which is particularly important to ensure vulnerable customers are not disadvantaged with this next evolution and we avoid a new 'digital divide' in Australia.
4. Exist alongside self-regulation which should continue to play an important role in setting high standards, getting ahead of change and customer expectations, and adapting existing frameworks to drive better customer outcomes.
5. Be efficient and effective – supportive of Australia retaining our global position as a financial centre and an incubator for ideas and responsive to this dynamic environment.

We therefore support the payments system reform agenda as proposed by Treasury, and the development of a strategic plan for the payments system, in so far as it is 'fit-for-purpose now and in the future'.¹³ We also support the four key principles set out in the Consultation Paper: Efficiency; Innovation; Accessibility; and Trustworthiness.

We also recommend that competition be specifically called out as a separate principal.

The following comments focus on the key priorities raised in the Consultation Paper. AFIA will provide high level comments on these items.

Promote a safe and resilient payments system

A key priority in the plan is promoting a safe and resilient payments system that ensures positive outcomes for all users of the system. As the Consultation Paper notes, to ensure safe and secure operation of the system, there is a clear need to minimise instances of scams and fraud and provide

¹² Op. cit. n 4.

¹³ Treasury, *A Strategic Plan for the Payments System: Consultation Paper* (2022), p 5, <<https://treasury.gov.au/consultation/c2022-343663>>.

robust protections to consumers. It is also important to strengthen existing regulation to appropriately manage risks to payments infrastructure such as technological outages and cyber-attacks.

AFIA agrees this is a key priority - it is also aligned with our priority for a safe and transparent financial system.

Ensuring the regulatory framework is fit for purpose and promotes competition

The Consultation Paper flags initiatives to ensure the regulatory framework is fit for purpose and promotes competition.

These include updating the *Payment Systems (Regulation) Act 1998* (PSRA) to capture the full suite of payment entities and systems, as well as provide the Treasurer with ministerial powers to address payment issues outside the scope of the Reserve Bank of Australia's (RBA) public interest powers.

AFIA supports this proposal and re-iterates its previous views that any approach to regulation of payments should be 'function based' rather than entity based – i.e., regulating the activity rather than the entity.

We therefore welcome the Consultation Paper's approach of establishing a new functions-based licensing framework for payment service providers, given the current regulatory framework is outdated and based on historical concepts of payment products and payment services. The Consultation Paper notes that a functional approach is required to describe the role that a service plays in the payments system, allowing regulation to be agnostic to the technology, business model or the store of value utilised.¹⁴

We suggest that the introduction of such a licensing framework should prioritise the practicality of implementation by payment service providers, both in design and rollout. To this end, we recommend any proposed framework be tested against example use cases prior to implementation, and that sufficient time is allowed for implementation of relevant systems and processes by captured entities.

Further, any framework should aim for international interoperability to ensure Australia is an attractive market for investment with regards to payment service provision.

Implementing a tiered licencing framework

The Consultation Paper proposes the implementation of a tiered licencing framework for payment service providers. We endorse this approach and look forward to a roadmap for the implementation of a new framework, including proposed timing for consultation and legislation.

We would caution however that any new licensing framework should not overlook that many existing entities in the payments ecosystem, such as AFIA members, have multiple touch points with the

¹⁴ Ibid, p 17.

regulatory system from a prudential, market conduct and credit perspective as well as a self-regulation perspective. A new payments licencing system should be flexible enough to provide a streamlined process for licencing that acknowledges and integrates with existing obligations.

This would ensure that entities subject to existing arrangements are not disproportionately disadvantaged by an additional layer of regulatory change.

Where possible any new payments licencing requirement should provide a mechanism to recognise existing authorised deposit-taking institutions (ADIs), Australian Financial Services Licence (AFSL) licensees and Australian Credit Licence (ACL) licensees who are already regulated within the financial system. In addition, any obligations within a new payments licencing framework should be consistent, or at least not conflict, with existing ADI, AFSL, ACL and other licencing arrangements within the financial services system.

Reducing small business transaction costs

Another initiative within this priority is to reduce small business transaction costs, by supporting the availability of least-cost routing (LCR).

AFIA has made previous submissions on LCR. We recognise that the majority of debit cards in Australia are dual-network debit cards (DNDCs), which allows domestic debit payments to be processed through EFTPOS or one of the international debit networks (Mastercard or Visa).

Least-cost routing (LCR) is functionality that lets merchants process contactless payments (i.e. 'tap-and-go') DNDC transactions through the network where the card costs them less to accept. This means merchants can reduce their payment costs.

Any reforms in relation to LCR need to also consider the impact of the LCR reforms on smaller card issuers, which typically only have single network debit cards (SNDCs).

AFIA supports choice in payment method for merchants and consumers.

Ensuring alignment with the broader digital economy transformation

Another key priority flagged by the Consultation Paper is to ensure the payments system is aligned with developments in the broader data ecosystem such as the CDR.

We strongly support this priority noting that that NPP, PayTo and the CDR system are evolving at the same time.

It is important for regulatory agencies and government to be co-ordinated to ensure consistency of approach and alignment. Further, there should be a lead agency acting as a co-ordination point,

transparency around inter-agency deliberations and decisions, and a clear pathway for industry engagement.

CLOSING COMMENTS

Thank you for the opportunity to provide this submission. We look forward to participating in ongoing dialogue on this issue and continuing to contribute to the development of the strategic plan for payments.

Should you wish to discuss our submission, or require additional information, please contact me at [REDACTED] or [REDACTED].

Yours sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'R' followed by a horizontal line extending to the right.

Roza Lozusic
Executive Director of Policy and Strategy