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Payments Policy and Strategy Unit
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Via email to paymentsconsultation@treasury.gov.au

Classification Public

Cuscal Limited (Cuscal) welcomes the opportunity to respond to the Government's **Strategic Plan for the Payments System Consultation Paper** dated 14 December 2022 (Strategic Plan).

Background to Cuscal

For over 40 years, Cuscal has leveraged our assets, licensing, and connectivity to provide intermediary and principal outsourcing activities on behalf of our clients. We are an end-to-end payments specialist that services more than 100 established ADI and challenger brand clients within Australia's financial system, including most of the mutual banking sector, and a growing number of FinTech and 'PayTech' enterprises. We enable their market connectivity so they may provide innovative products, business models, and drive improved customer outcomes.

We are an Authorised Deposit-taking Institution (ADI), the holder of an Australian Financial Services Licence, and an Australian Credit Licence for Securitisation purposes. Cuscal has Board representation with Australian Payments Plus, NPPA, Australian Payments Network and participates in numerous industry committees. We were the creator and founding shareholder of 86400 (rebranded to ubank, <https://www.ubank.com.au/>), a fully licenced mobile-led digitised bank, which we sold to National Australia Bank in 2021.

The services that we provide to our client institutions include card scheme sponsorship for issuing and acquiring, payment card issuing, card production services, digital banking applications, access to domestic payment services using direct entry, BPAY, the New Payments Platform (NPP) and Open Banking Data holder services. We also act as settlement agent for many of our clients through our Exchange Settlement Account with the Reserve Bank of Australia (RBA).

As a fully PCI-DSS accredited ADI, Cuscal is uniquely placed to provide secure and robust capabilities that facilitate access to markets that would otherwise be beyond the reach of some organisations.

Cuscal's Responses to the Consultation

Key Principles

1. What are your views on the proposed key principles? Are there other principles that should be included? Please provide an explanation.

- i. Cuscal generally supports the Government's proposed key principles of Efficiency, Innovation, Accessibility and Trustworthiness. The four principles appear sufficiently broad to encompass industry priorities.
- ii. Nevertheless, as part of the Efficiency principle, further thought is required regarding the underlying actions, including how and when these are implemented and how the Government will ensure that the proposed changes are adhered to by the industry.
- iii. Treasury should be mindful of the potential tension between these principles, for example:
 - o Increased "Accessibility" can have a negative impact on "Efficiency" if new intermediary layers are placed in payment flows which increase overall costs;



- New ways to pay brought into the system by “Innovation” can sometimes undermine “Trustworthiness” for some consumers, who may be unsure how they work or whether they are ‘bona fide’. Similarly, “Trustworthiness” can be eroded where “Innovation” and “Efficiency” are supported through reduced regulation /or oversight.

Key Priorities

2. What are your views on the proposed key priorities? Do they provide enough certainty on what the key priorities are for the Government? Are there other matters that should be included? Please provide an explanation.

- i. Cuscal is broadly supportive of the Key Priorities outlined in the Government’s Strategic Plan, which include:
 - Promoting a safe and resilient payments system;
 - Ensuring the regulatory framework is fit-for-purpose and promotes competition;
 - Ensuring alignment with the broader digital economy transformation; and
 - Modernising payments infrastructure
- ii. Cuscal recommends that further focus is given to how the Government will ensure that any proposed key changes and timelines are adhered to by the industry. Whilst innovative solutions may have Government backed support, a lack of consequence management can leave those at the forefront taking on all the risk, e.g., PayTo and Open Banking’s slow roll out by some banks impacting the ROI of organisations who have actually met the industry timelines.

Key Initiatives

3. What are your views on the proposed key supporting initiatives? Are there other initiatives that could be included in the Plan? Please provide an explanation.

Promoting a safe and resilient payments system

- i. Cuscal supports the Strategic Plan’s focus on security and resilience.
- ii. To further strengthen industry controls and counteract spam and fraud, digital identification standards and mandatory 2 factor authentication (with warning messages) that creates confirmation by the consumer that they want to make the payment should be required, This should be accompanied by strict time frames for implementation and consequences for non-adherence. More thought is also required around 2FA alternatives for people who are not comfortable with the process, such as older customers with limited mobile phone usage experience.
- iii. Protecting consumers from scams is vital in ensuring trust in the payment system, however the Strategic Plan and supporting regulation should clarify that scams where the consumer has consciously participated, for example consciously authorised a payment to a scammer, are not the fault of the payments system.
- iv. The Government should also consider what can be done to increase security of funds when sent internationally. For example, ability to put on hold transactions over a threshold amount or recall these funds when they are subject to scams and fraud as well as overall traceability need to be explored.
- v. Education being the responsibility of the industry may lead to conflicting messaging and a lack of consistency. Support from the Government or centralised body is needed for targeted consumer education around detecting and preventing scams. For example, ASIC’s money-smart program is very strong and could be rolled out more broadly - through better access and visibility. The Government is also establishing the National Anti-Scam Centre, which could also be responsible for the creation and coordination of community communication and education programs (in addition to ASIC’s money-smart program). Any costs could be recovered through an industry levy.
- vi. Increased regulatory requirements, such as the *Security of Critical Infrastructure Act 2018* or mandating the mandating the *ePayments Code* across the industry and aligned with the proposed tiered licensing regime to ensure a uniform level of security for consumers.



- vii. Further focus should be given to keeping the system safe from money laundering and nefarious use, other than scams and fraud, for example:
 - o Maintain and build defences to stop "bad actors" from accessing and using the Australian payments system.
 - o Review the systems/processes for players connecting into the Australian payments system to ensure that they are not bringing with them weaknesses or "gateways" that could be accessed by "bad actors"; this issue needs to be kept fully in mind when pursuing the proposed key principle of "Accessibility".

Ensure regulatory framework is fit-for-purpose and promotes competition

- viii. While a review of the Payment Systems (Regulation) Act 1998 (PSRA) is welcomed by Cuscal, without ongoing review, the regulation is likely to quickly become outdated again. Further, the licensing definition will need to be flexible enough to capture activities of Payment Service operators (e.g., digital wallets and payment initiation services), which provide an orchestration layer that initiates the payment but does not actually process it. There may also remain a gap in consumer protection for payments that might be impacted by technology issues experienced by such Payment Service operators.
- ix. Cuscal is supportive of encouraging competition and innovation in the payments system through the introduction of a payments licensing regime. However, any tiered system should be based on reciprocity that does not allow "free entrance" when it comes to liability, standards, infrastructure, and relevant capital levels to support a sound ecosystem and capacity to absorb errors and omissions. Standards must be high for all. To do otherwise could lead to incidents and issues which will undermine trust in the payment system.
- x. Customer protection should be a key consideration when implementing the new licensing framework. The tiered payments licence should not encompass access to payment system clearing and settlement but should cover services for payment initiation and stored value to enable customer payments. ADIs have a special status in the settlements process as at all stages, including when in transit, customer funds are held in accounts with APRA regulated and highly capitalised institutions, which are subject to an enhanced level of oversight and regulation, providing these funds with greater protection and system stability.
- xi. The post-Wallis inquiry system, where oversight is based on whether you are holding deposits rather than corporate structures, means that customer funds are the focus rather than efficiency. This contributed to Australia navigating the GFC without major losses of customer deposits. When considering the recent FTX cryptocurrency exchange example, it is particularly important that any licensing changes are accompanied by rigorous system and capital resilience, which is not weakened for the sake of potential efficiency or innovation. Operations such as fraud monitoring and prevention should also be balanced against client expectations of fast processes.
- xii. When considering innovation of the payments system in Australia more broadly, the Government should also give more thought to the fact that benefits / costs are not always evenly distributed in the industry, with smaller participants, such as mutuals, finding it harder to keep up with the rate of change and technical requirements compared to the bigger ADIs. This is compounded with the lack of consequences for delays in meeting deadlines, increasing the risk for the organisations who meet the deadlines.
- xiii. There is also a risk that granularity in the licensing framework will further slowdown the current timing for receiving an AFSL. Appropriate staffing and efficient processes will need to underline any changes to the licensing framework to ensure that the agile and innovative approach intended by the Government is not hindered by elongated approval processes and timeframes.
- xiv. Cuscal supports the increased coordination between regulators. As part of this, the Strategic Plan should also look to address the frictions in payments currently experienced due to misaligned legislative requirements, specifically in the areas of:
 - o Sanctions,
 - o AML/CTF, and





- Privacy.

For example, privacy legislation can limit information sharing when trying to counter security breaches, as was seen during the Optus and Medibank cybersecurity episodes (and was subsequently addressed by the Government).

The interplay of broader legislation should also be considered when creating new requirements (e.g., for CDR and NPP). For example:

- there needs to be an industry end date set on the closure of Screen Scraping;
 - secondly, Treasury needs to help ensure that any tiered licencing regime takes into accredited representative models so that the standards and obligations on the lead party are applied uniformly to any representatives or agency structures.
- xv. The implementation of CDR has picked up momentum, with action initiation legislation introduced in Parliament late last year. The timing of outcomes related to consultations will be critical to avoiding future rework and reducing overall compliance costs to businesses at the forefront of innovation.
- xvi. The Government should also further consider existing complexities around data sharing. For example, how the Government helps the industry solve for data sharing during large-scale cyber-attacks (not just telecommunications companies) to enable payment providers to more closely monitor / flag for fraud activity on potentially compromised accounts.
- xvii. Cuscal recognises the need to reduce small business transaction costs, however the Government's Strategic Plan should not lose sight of the consumer in this process. Consumers should be able to choose their routing preference for payments at the point of sale. Taking this right away from the consumer may mean that they are not entitled to the rewards (e.g., points and cashbacks), and protection that may be associated with making the purchase via their preferred card scheme provider. This should be further supported through education of consumers as to the implication of this choice, both for them and the merchant.
- xviii. The Government should analyse in detail the actual realised benefit based on merchant categories from the implementation of LCR, before directing further funds into the initiative. There is concern in the industry that due to technical limitations, some LCR compatible terminals default to sending all eftpos-eligible payments to eftpos, without regard to whether the transaction will actually be 'least cost' (i.e., on some transactions, processing by an international card scheme can be lower cost than eftpos). This means that smaller merchants, with smaller average transactions, such as cafés and convenience stores, may be paying more (not less) for many of their transactions. Accordingly, LCR may be predominantly benefitting larger retailers rather than small businesses, contrary to the intent of the initiative. This potential drawback is also not always clear to merchants, and more comprehensive education around estimating potential benefits/drawbacks for merchants is required.
- xix. It should also be noted that interchange has traditionally been the source of funds for small issuers to fund card issuing innovations and important for new issuing entrants. Using this as a lever to reduce merchant costs runs the risk of inadvertently reducing competition and innovation in the card issuing market.
- xx. If the focus in LCR is further underpinned by the Government's stance that the long-term survival of the eftpos domestic card scheme is in the National Interest, then this should be made clearer in the Strategic Plan, with clearer justification on this stance. Moreover, if this is the case, eftpos functionality needs to be uplifted to meet the offerings of the international card schemes (such as online and offshore use, chargeback rights, better consumer guarantees and reward programs).
- xxi. To assist small businesses to reduce costs, the Strategic Plan should also focus on broader education, for example by explaining the cost of cash to merchants (which may be higher than debit card acceptance when the costs of robberies, pilfering, incorrect making of change, end of day reconciliation, depositing at bank and required security devices are considered).

Alignment with the broader digital economy transformation





- xxii. As mentioned previously, Cuscal recommends that further focus is given to how the Government will ensure that any proposed changes are adhered to by the industry. Whilst innovative solutions may have Government backed support, lack of consequence management can leave those at the forefront taking on all the risk, e.g., PayTo and Open Banking's slow roll out by some banks, impacting the ROI of organisations who meet timelines.
- xxiii. Further focus should be directed to ensuring interoperability across the CDR and Payments system to help reduce any potential friction points and create a more streamlined consumer experience, for example in relation to consent management, error handling mechanisms and accreditations.
- xxiv. Government can also have a strong role to play in "leading by example" and rapidly adopting digital solutions. An example of this would be the issuance and acceptance of payments by cheque, where the Government across its range of departmental activities could itself use the NPP and encourage its customers to do the same. Similarly, where necessary, the State and Federal Governments enacting changes to legislation to avoid any ongoing requirements for cheque payments in certain activities.

Modernise payments system infrastructure

- xxv. Digital systems need to show resilience (and low cost) to instil confidence that old systems can be retired. Any decommissioning of legacy systems should be done through an organised industry-led approach to facilitate an orderly transition.
- xxvi. The Government should ensure that old system decommissioning plays a key role in payment system modernisation. For example, the Government can lead the transition from Cheques and BECS by setting a timeline with an end date. Without an end date, organisations that look to proactively wind down legacy operations take on greater risk of losing competitiveness compared to organisations that continue to offer legacy products. In embracing innovative solutions, the Government should support consumer confidence by transitioning its internal operations to such technology wherever possible, for example though transition of its key agencies to the NPP to replace DE and cheque payments.
- xxvii. There is complexity around the current decentralised approach to legacy products that will eventually lead to poor consumer outcomes. For example, changes to the *Cheques Act 1986 (Cth)* are required to enable the industry to come together to discuss the future of cheques in a more meaningful and productive way. Anti-competition and anti-collusion clauses currently prohibit AusPayNet setting an end date to cheques in Australia like they are proposing for BECS. This lack of centralised decisioning on end of cheques will lead to piecemeal exits and a poor consumer experience as they may be receiving a cheque from one bank but have no ability to bank it (if their FI has already exited).
- xxviii. Government-led public education around modern payment infrastructure is also key to public uptake and trust. For example, a lack of understanding by the Australian public of the benefits of CDR has also meant a slow uptake by clients and has further exacerbated the slow implementation by some banks. Education of consumers about the advantages of new tools and systems will increase consumer demand and in turn feed the demand for innovation from the industry.

4. Do you have any feedback on the proposed approach for any of the initiatives (as outlined in Attachment B)? Please provide an explanation.

- i. While overall there are some sounds actions outlined, more detail should be given as to how, by who, and when "support" and "promotion" of certain activities will be realised. Without this detail, the initiatives give the appearance of being aspirational rather than a firmer set of planned activities, which one might expect to see in a Strategic Plan.





5. What are the key milestones for key initiatives that you would like to see included in the Plan? Are there any conflicts between milestones or pressure points that need to be considered in revising the roadmap?

- i. The proposal to make a draft roadmap available for the ecosystem outlining key milestones will significantly benefit industry participants given the interdependency between these initiatives and the impact it has on the end consumer.
- ii. We note that the final Roadmap is subject to consultation, however the Strategic Plan needs more detail on the independent work streams and more precise timing for targeted delivery to make the roadmap come to life. As noted above, the provision of target "end dates" in the Roadmap for the Cheque system and the BECS system (potentially a series of dates, e.g., an end date for single Direct Credit transfers, an end-date for bulk Direct Credit Transfers) would provide helpful milestones for the industry.

Process for reviewing the Plan

6. What are your views on the proposed review process and engagement arrangements? Please provide an explanation.

- i. Cuscal is supportive of the proposed review process and is looking forward to discussing our submission with you in more detail as part of the upcoming consultation process.

7. Are there any other sections or topics that you would like to see added to the Plan?

- i. As noted throughout our submission, Cuscal would like to see:
 - o Greater focus on the operationalisation of the Strategic Plan (e.g., more detailed actions), as well as enforcement.
 - o The LCR program should consider the potentially detrimental impacts on consumers.
 - o A targeted consumer education campaign to support the Government's focus on minimising scams.
 - o A uniform approach to security and resilience standards throughout any regulatory or licensing changes.
 - o Greater focus on alignment of legislation around AML/CTF, Sanctions, Privacy and Data Sharing.

Concluding remarks

Cuscal broadly supports the Government's **Strategic Plan for the Payments System**. Cuscal's submission concentrates on key industry concerns around security and resilience, competition, consumer outcomes, innovation, and efficiency.

We look forward to discussing our submission with you as part of the upcoming consultation process. In the interim should you have any questions or require further information please feel free to contact me.

Yours sincerely

Cuscal Limited

Kieran McKenna

Chief Risk Officer

