

13 July 2023

**Director - Payments Licensing Unit
Financial System Division
The Treasury**

By email: paymentslicensingconsulation@treasury.gov.au

Consultation Paper: Payments System Modernisation (Licensing: Defining Payment Functions)

Dear Sir/Madam,

Tyro Payments Limited (**Tyro**) appreciates the opportunity to provide a submission in response to The Treasury's (**Treasury**) Consultation Paper – *Payment System Modernisation (Licensing: Defining Payment Functions)* (**Consultation Paper**), released on 7 June 2023.

About Tyro

Founded in 2003, we are a technology-focused and values-driven company providing Australian businesses with payment solutions and value-adding business banking products. We provide simple, flexible, and reliable payments solutions as a merchant acquirer, along with complementary business banking products.

We were issued an Australian Financial Services Licence and became an Authorised Deposit-Taking Institution (**ADI**) in 2015, making us, at that time, the first new domestic banking licensee in over a decade. We are now Australia's fifth largest merchant acquiring bank by number of terminals in the market, behind the four major banks, serving over 66,000 merchants.

Overview

The Consultation Paper presents a comprehensive approach to addressing the regulatory challenges faced by PSPs, outlining the minimum licensing requirements for these providers. This submission supports the proposed approach and highlights the potential benefits it offers in terms of regulatory certainty, the simplification of the current regulatory framework and benefits that will flow through to consumers as a result. However, this submission also suggests that it will be important to adopt a balanced approach when determining the licence conditions and corresponding obligations that are imposed on providers which are offering simple and low-risk products.

1. Regulatory Clarity and Uniformity

The current regulatory landscape lacks clarity and uniformity and has led to varying levels of regulation between PSPs who often provide similar payment services. Tyro is therefore supportive of the proposal to require all PSPs to obtain an Australian Financial Services Licence (**AFSL**). Implementing a licensing regime through the AFSL framework equips regulators with the necessary tools to effectively monitor and mitigate systemic risks across all PSPs. By requiring all providers to obtain an AFSL and comply with the general financial service licensee obligations, the proposed framework will enhance the resilience of the payments ecosystem and continue to protect consumers.

2. Scope for proportionality in licence conditions and obligations

Under the proposed licensing framework, it is anticipated that existing requirements within the Corporations Act, such as the licensing, disclosure and hawking prohibitions will extend to entities not currently subject to these requirements, Tyro is concerned that uniform categorisation of all payment services may, in some cases, impose a regulatory burden that is disproportionate to the complexity or risks of specific products.

Many products affected by this proposal, such as payment facilitation and merchant acquiring, are generally well understood, simple and easy to use. We believe it is important to adopt a balanced approach when determining the licence conditions and corresponding obligations that are imposed on providers which are offering simple and low-risk products. A more considered approach could include exempting certain services from particular obligations, such as disclosure or hawking obligations, similar to basic banking products. With the increased complexity and growing cost of compliance, Tyro advocates for promoting proportionality where it is reasonable to do so.

When determining obligations under the licensing framework, it is important to also acknowledge that certain entities, such as Tyro already adhere to a high regulatory standard and oversight through existing ADI and AFSL licenses. This provides consumers with established safeguards, including the ability to raise complaints through AFCA.

Tyro would appreciate the opportunity to provide more detailed commentary on the specific obligations that might be proportionate for certain services as consultation progresses.

3. Impact on competition

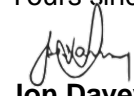
It is essential to ensure that any regulatory measures put forward are balanced and acknowledge the diverse roles and functions performed by various participants in the payment's ecosystem. The proposed framework is expected to have a significant impact on the operations of numerous PSPs, thereby possessing the potential to influence both competition and innovation.

Whilst simplifying the framework may provide some clarity for providers in understanding overall requirements, the costs and administration burden of complying is likely to stifle the ability of smaller providers to enter the market and remain competitive. Competition is crucial for the payment's ecosystem and more specifically Tyro, whose existence depends on staying competitive against existing larger providers.

4. Preparing for change

Whilst Tyro is supportive of the proposals, we maintain that PSPs should be provided with sufficient time to prepare for the commencement of a new licensing framework, as these reforms will be fundamental to the business structures of many Australian participants including Tyro. This will assist businesses like Tyro to plan, prioritise and allocate the appropriate resources required.

Yours sincerely,



Jon Davey
Chief Executive Officer