



Payments System Review

Issues paper

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Manager
Media and Speeches Unit
The Treasury
Langton Crescent
Parkes ACT 2600
Email: media@treasury.gov.au

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Consultation Process

Request for feedback and comments

Interested parties are invited to comment on the issues raised in this paper by 31 December 2020.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses sent via email in a Word or RTF format. An additional PDF version may also be submitted.

Publication of submissions and confidentiality

All information (including name and address details) contained in formal submissions will be made available to the public on the Australian Treasury website, unless you indicate that you would like all or part of your submission to remain confidential. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain confidential should provide this information marked as such in a separate attachment.

Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

Further consultation process during the Review

The Payments System Review will consult broadly with representatives from industry, consumer and other interested parties in developing a final report containing recommendations. This may involve conducting targeted roundtables with interested stakeholders on specific issues where the review requires more information or to seek further views.

Closing date for submissions: 31 December 2020

Email	PaymentsReview@treasury.gov.au
Mail	Secretariat Payments System Review The Treasury Langton Crescent PARKES ACT 2600
Enquiries	Enquiries should be directed to PaymentsReview@treasury.gov.au Media enquiries should be directed to medialisson@treasury.gov.au or +61 2 6263 2300.

Payments System Review

The Prime Minister, the Hon Scott Morrison MP and the Treasurer, the Hon Josh Frydenberg MP announced on 29 September 2020 the JobMaker Digital Business Plan, which included a suite of measures designed to accelerate Australia's recovery from the economic impacts of the COVID-19 pandemic.

A key element of this package includes reviewing the regulatory architecture of the Australian payments system to ensure it remains fit-for-purpose and is capable of supporting continued innovation for the benefit of consumers, businesses and the broader economy.

On 21 October 2020 the Treasurer announced that Mr Scott Farrell would lead the review and provide a report to the Government by April 2021. This issues paper forms the first step in this review, and stakeholders are invited to consider the questions that are designed to address the issues as set out in the Terms of Reference.

Terms of Reference

The Government is committed to a modern payments system that meets the current and future needs of all Australians. Consistent with this, the Government is commissioning a review into the regulatory architecture of the payments system to ensure it is fit-for-purpose and responsive to advances in payments technology and changes in consumer demand.

This is particularly important now as the COVID-19 pandemic has seen consumer appetite for using different payment platforms accelerate, including a significant increase in demand for digital payments. Continued innovation of this key economic infrastructure will be central to lowering transaction costs, reducing the cost to doing business and supporting the economic recovery.

The regulatory architecture that applies to these new technologies, businesses and products have served us well, but have remained largely unchanged for over two decades. This review would look at the roles of industry self-regulation, regulators and the Government and consider the balance between promoting competition, innovation, efficiency, safety, resilience and stability of the system.

The review will assess:

- The current structure of the governance and regulation of the payments system to assess whether it is fit-for-purpose, including whether the regulatory framework adequately accommodates new and innovative systems and the effectiveness of the current structure in implementing government policy;
- How to create more productivity-enhancing innovation and competition in the payments system, including in relation to the pace and manner in which the New Payments Platform is being rolled out and enhanced by industry;
- Ways to improve the understanding of businesses and consumers of alternative payment methods;
- Whether government payment systems, including payments to citizens, are agile and can take advantage of new payments functionality, to enhance service delivery; and
- Global trends and how Australia should respond to these trends to ensure that it continues to remain internationally competitive.

1. Regulatory architecture of Australia's payments system

The 'payments system' refers to the collection of laws, regulations, protocols and infrastructure that governs and administers the way that payments in all forms are sent and received.¹ All of us depend on the payments system to send and receive money, purchase goods and services, and engage in a wide range of activities with family, friends and the community at large.

Developments in technology and broader structural changes to the economy are driving new forms of payments that better serve the needs of end-users – whether they are consumers, businesses, governments, or community groups. Australia's regulatory architecture should encourage and foster innovative developments while minimising the risks that arise from these changes.

This issues paper poses questions around how Australia's regulatory architecture can best serve end-users by creating a framework that encourages competition and innovation, ensuring payments can be made in an efficient, low-cost and secure manner without compromising the stability of the system.

This review will give consideration to the findings and evidence provided to other recent reviews that impact on the payments system. Specifically, the review acknowledges the Senate Select Committee's interim report on Financial Technology and Regulatory Technology; the Australian Payments Council Review of the Australian Payments Plan; the Productivity Commission's Inquiry Report into Competition in the Australian Financial System; the Reserve Bank of Australia and the Australian Competition and Consumer Commission's Conclusions Paper into the New Payments Platform Functionality and Access; the Review into Open Banking in Australia; the Inquiry into Future Directions for the Consumer Data Right; the Council of Financial Regulators' Review of the Regulation of Stored-value Facilities; and the evidence provided to the Treasury in its discussion paper on Initial Coin Offerings.

This review also acknowledges the concurrent review underway by the Reserve Bank of Australia's (RBA's) Review of Retail Payments Regulation. While the two reviews relate to the payments system, there is expected to be minimal overlap between the two insofar as the focus of this review is on the regulatory architecture of the payments system as a whole and not specific regulatory policy settings in place for the retail payment systems.

Role of regulatory architecture

The payments system forms a central piece of Australia's economy as a key facilitator of transactions between all end-users, which includes consumers, businesses, governments and community groups.

Given the centrality of this role, the regulatory architecture should be structured to ensure the payments system best serves its end-users while boosting the productivity and efficiency of the economy as a whole.

To meet these objectives, the regulatory architecture must incentivise and encourage the development of secure payments technology that enhances user experiences, supports businesses through lower costs and empowers consumers with greater choice. A forward-looking regulatory

1 The focus of this review is on the payments system in the broadest sense and as outlined. It should not be confused with individual 'payment systems' or networks as prescribed or designated by the Reserve Bank of Australia.

environment is essential to preserve and enhance our world-class payments system so that it continues to benefit all Australians.

The following sections will review the current regulatory architecture and pose questions on the extent to which the structure is best placed to meet future challenges and deliver for all users.

Current regulatory architecture

The payments system is regulated by a range of self-regulatory bodies, independent regulators and the federal government, and each interacts closely to achieve broader system objectives.

At its core, the payments system operates with the presumption of self-regulation, with oversight from independent regulators with differing mandates and responsibilities.² The regulatory architecture was designed to ensure the system worked in the public interest by promoting efficiency and competition, while ensuring stability.

Given the passage of time and changes to the payments landscape, it is important to reflect on whether this structure and the mandates of individual regulatory bodies continues to deliver optimal outcomes for end-users. In the remainder of this section we further discuss the roles of industry regulation, regulators and the federal government.

Industry self-regulation

The payment networks in Australia were developed over time by significant private sector investment (mainly by the major banks and large retailers) who own and run the infrastructure required to administer them.³ These interdependent networks require considerable co-operation between competitors to develop shared protocols for initiating, clearing and settling payments, to respond to new developments and resolve issues.

The main self-regulatory institution currently in the payments system is the Australian Payments Network (AusPayNet; formerly the Australian Payments Clearing Association), which is an industry association. The Board of AusPayNet includes representatives from the major banks, the RBA and large payment intermediaries. Members include a range of direct and indirect payments system participants, such as banks and credit unions, large supermarket retailers (as acquirers in the system), card schemes, and other payment service providers.

Independent regulators

The current structure of independent regulators has remained largely the same since the 1997 Financial System Inquiry, with a functional split between the regulators. Each regulator has its own mandate as set out in legislation.

Reserve Bank of Australia

The RBA is Australia's primary payments system regulator, with broad powers to impose access regimes and set standards for participants within designated payments systems. The RBA plays a number of roles in the payments system, as a regulator, infrastructure provider, provider of banking services to the federal government, and issuer of Australia's banknotes.

2 The current regulatory architecture was largely shaped in the late 1990s following the 1997 Financial System Inquiry.

3 These networks consist of domestic infrastructure such as BPAY, eftpos, the NPP and a variety of back-end structures such as the Bulk Electronic Clearing System, and the Issuers and Acquirers Community administered by AusPayNet.

As an infrastructure provider, the RBA operates the system that provides for real-time gross settlement of high-value payments between financial institutions, and operates the Fast Settlement Service to settle payments in the New Payments Platform (NPP).

The Payments System Board (PSB) has powers to determine the RBA's payments system policy, with its functions set out in the *Reserve Bank Act 1959* (Cth).⁴ The PSB is a separate board within the RBA and has a mandate to ensure that it promotes efficiency and competition in the market for payment services, consistent with the overall stability of the financial system. It is comprised of up to eight members, including two members from the RBA (including the Governor), a member from the Australian Prudential Regulation Authority (APRA) and up to five others selected by the Treasurer.

Consistent with the intent of the *Payment Systems (Regulation) Act 1998* (Cth) (PSRA), the PSB pursues its mandate through a co-regulatory approach.⁵ This approach is aimed at ensuring industry continues to self-regulate where it is promoting efficiency, competition and stability, with the RBA intervening with regulations only when industry is unable or unwilling to undertake reforms that are necessary in the public interest. When the RBA decides to intervene, consistent with the PSRA, it consults widely, with both the payments industry and other stakeholders including consumers, businesses and government entities.

Consistent with the co-regulatory approach, the PSB consults with industry via the Australian Payments Council (APC). The APC is the strategic coordination body for the Australian payments industry, and directly engages with the PSB on setting and achieving strategic objectives. The APC members are senior executives from a range of payments organisations including banks, retailers and card schemes, AusPayNet and the RBA (in its role as provider of banking services to the government).

The RBA also convenes a Payments Consultation Group composed of representatives of end-users (consumers, merchants, businesses and government agencies), to ensure that the PSB is well informed of end-user needs and views in its policy work.

The Australian Competition and Consumer Commission

The Australian Competition and Consumer Commission's (ACCC's) role is to enforce compliance with the *Competition and Consumer Act 2010* (Cth) (CCA), including the competition provisions of the CCA with respect to payments. It does so in all instances, except where the RBA has designated and imposed a standard or access regime on the industry. Where such a standard or access regime is set, industry compliance with these rules cannot be challenged under the CCA.

The ACCC also considers applications for authorising arrangements in the payments system that could be contrary to competition law. This can include applications relating to the payments system where co-operation is required between competitors in the payments system to ensure the smooth functioning of the payments system.

For example, the ACCC has granted a number of authorisations to AusPayNet to facilitate co-operation between financial institutions on cheque-clearing, direct entry, debit cards and high-value transactions.

The ACCC also works closely with the RBA with a Memorandum of Understanding (MoU) providing for information sharing and collaboration on competition matters affecting the payments system. Such co-operation is essential considering the potential overlap in regulatory oversight.

The Australian Prudential Regulation Authority

The Australian Prudential Regulation Authority's (APRA's) mandate is to establish and enforce prudential standards and practices designed to ensure that, under all reasonable circumstances,

4 See Reserve Bank Act 1959, section 10B.

5 See Explanatory Memorandum, *Payment Systems (Regulation) Act 1998* (Cth), page 1.

financial promises made by institutions that it supervises are met within a stable, efficient and competitive financial system.

Currently, APRA is responsible for authorising and supervising large purchased payment facility (PPF) providers whose facilities are widely available and accepted as a means of payment, and are redeemable for Australian currency on demand by the user.

The Australian Securities and Investment Commission

The Australian Securities and Investment Commission (ASIC) administers regulation intended to ensure market integrity and consumer protection across the financial system, including for payment products. The functions of ASIC include the licensing of financial service providers (including non-cash payment facility providers), and oversight of market and clearing and settlement facility licensees.

ASIC also administers the ePayments code, which is currently a voluntary code that applies to consumer electronic payment transactions, including ATM, EFTPOS and credit card transactions, online payments, internet and mobile banking, and BPAY. This code operates alongside other key legal obligations, such as the need to hold an Australian Financial Services licence to provide financial services, as well as other conduct and disclosure requirements that apply to licensees and their representatives.

ASIC works closely with the ACCC on consumer and competition matters, and a MoU between the two regulators guides this relationship and facilitates cooperation, inter-agency assistance and the sharing of information as appropriate. ASIC also has MoUs with the RBA and APRA.

Australian Transaction Reports and Analysis Centre

As Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regulator, the Australian Transaction Reports and Analysis Centre (AUSTRAC) has powers to regulate designated financial services and impose reporting requirements on entities in the financial system that provide those services. These services cover a wide range of payment activities, and include opening an account and accepting money on deposit, issuing cheques and debit cards, or sending or receiving electronic funds transfers.

Under the AML/CTF legislation, AUSTRAC can pursue a number of legal remedies for breaches of the obligations placed on entities as providers of designated services. These remedies range from infringements, remedial directions and injunctions, to civil penalties or criminal sanctions.

Government participation

Under the current regulatory framework, the RBA and other regulators have broad discretion in how they pursue their policy objectives, which are generally set out in legislation. While the government has the power to legislate and modify the framework, it is generally not involved in directing future payment policy directions or prescribing how the regulatory framework is enforced.

Regulation of the payments system is the responsibility of the RBA, other independent regulators, and industry self-regulation. The discretion afforded to independent regulators to determine regulatory arrangements is a feature of the legislative framework set by the government. However, the government has oversight of the operations of regulators through reports submitted to the government (such as the PSB's Annual Report), appearances of the regulators at House and Senate Committees and ad-hoc reviews. Such mechanisms ensure that regulators remain accountable to the government and their mandates. The government also receives advice from the Treasury, on both the operation of the payments system and its regulation.

The government also plays a critical role as a major customer of the payments system. The government makes and receives a large number of payments to and from the Australian community as part of its transfer payment and taxation systems. It is also an active participant in markets and will make and receive payments to and from businesses. Due to its reliance on the Australian

payments system, the government has a clear interest in fast, efficient and reliable payments infrastructure to undertake its functions. As a large and influential counterparty in the payments system, the government may be able to influence commercial outcomes, including the type of payment infrastructure that is used to process its payments.

A regulatory architecture for the future

Australia's regulatory architecture has served us well, and has supported a number of innovative reforms in recent years that have delivered significant benefits to end-users. The development of dual-network debit cards, contactless payments, digital wallets and the NPP has given businesses, community groups, and governments more options to serve their customers, and has provided greater convenience for consumers.

However, developments in the payments system continue to gather pace and in some cases evolve in an unpredictable manner. These could impact the effectiveness of Australia's regulatory architecture to meet the objectives of a competitive, resilient and efficient payment system. To ensure Australia is well placed to safely leverage the benefits of new technologies, our regulatory architecture must be agile, responsive to technological advances and capable of setting a long-term direction for payments policy in Australia.

The future of Australia's regulatory architecture will need to facilitate effective coordination between regulators, industry and governments, and appropriately balance the management of risk and efficiency in the payments system. It needs to create an environment in which businesses – particularly new entrants – are able to meet regulatory requirements in a straight-forward and streamlined manner, and have the confidence and certainty to invest and develop new forms of payments technologies that are tailored to the needs of end-users.

Most of all, the architecture should place end-users at the heart of regulatory design, by ensuring consumers and businesses benefit from lower transaction costs and enhanced service delivery as they adopt new payment functionalities, leading to greater productivity in the economy as a whole.

Questions

1. Does the regulatory architecture appropriately facilitate the development of an overall vision, strategy and principles for the Australian payments system?
2. How should our regulatory architecture be designed in order to balance the management of risk and efficiency in the payment system with the need for effectiveness for end-users?
3. What is the appropriate balance between self-regulation, formal regulation and government policy to ensure the payment system continues to work in the best interests of end-users?
4. Are there gaps (or duplication) in the current architecture that need addressing to ensure the system continues to work in the best interests of end-users?
5. How should the regulatory architecture be designed to best facilitate the coordination of participants and regulators to meet the requirements of end-users?

2. Developments in the payments system

Section 1 outlined Australia’s regulatory architecture and the regulatory approaches taken. It sought stakeholder views on the extent to which this architecture and approaches to regulation best serve end-users and take a forward-looking approach to innovations in the system.

In this section, we take stock of some developments and trends in the payments landscape to better understand how the current regulatory architecture is engaging with these changes. This section does not attempt to identify all advancements. Rather, it highlights some examples as case studies and poses general questions on how the architecture has responded to (or hindered) new developments and what steps could be taken to further improve the system.

Finally, this section provides an overview of approaches taken by other jurisdictions to reform their payments system architecture and seeks views on the extent to which Australia could learn from overseas experiences to ensure our system is aligned with international best practice.

The evolving landscape

The payments landscape continues to evolve with changes in technology, consumer preferences and new business models. Payment methods have continued to shift from cash and cheques, which were most popular in the 1990s, to cashless methods including debit cards that are widely used today.

These consumer-facing changes have been complemented by significant changes to the way the back-end of the payments landscape is operating. For example, the introduction of fast payments technology such as the NPP is an important new development that will further transform the payments landscape.

The rapid pace of change in part reflects consumers’ preference for convenience and is underpinned by widespread awareness of these technologies. For example, the widespread adoption of devices with near-field communication (NFC) technologies has driven growth in contactless payments. As the payments landscape continues to evolve, ensuring businesses and consumers remain well informed will be critical for the uptake of new payment technologies.

Fast payments technology

Launched in February 2018, the NPP is a fast payments technology that provides end-users real-time, versatile and data-rich payments on a 24/7 basis. The NPP has been the result of industry-government collaboration and reflects the RBA’s approach of working with industry to deliver innovative products in the public interest. The NPP utilises infrastructure provided by the RBA and the networks of Australia’s banks to provide safe, data-rich payments that are settled in real-time. The NPP supports the independent development of innovative ‘overlay’ services for end-users in addition to the current offering.⁶

As a key source of current and future innovation, the NPP has the potential to transform the way consumers and businesses make and receive payments, and enable governments to better respond to emergencies such as natural disasters, by sending money quickly to recipients in a seamless way.

Future growth and innovation of the NPP requires rollout of functionality, and continued investment by industry will enhance capability of the NPP and provide new payments possibilities to end-users.

The NPP is an example of the continuously evolving nature of the payments landscape that incorporates new infrastructures offering greater speed and convenience. Such innovations are likely

6 Osko®, the first overlay service for the NPP was introduced by BPAY in February 2018.

to continue over time, and the regulatory architecture needs to ensure it can drive innovations in the system to support productivity enhancements that best serve end-users.

Buy-now pay-later

Buy-now pay-later (BNPL) arrangements offer an alternative to traditional credit by allowing consumers to buy and receive goods and services immediately from a merchant, and repay a BNPL provider over time. BNPL providers generally charge merchants a fee when consumers use a BNPL arrangement. BNPL providers may also charge consumers fees to use the arrangement, as well as late or missed payment fees. BNPL arrangements are available in-store, online, and sometimes through door-to-door sales.

The BNPL industry has experienced rapid expansion both domestically and abroad over recent years. In its recent report, ASIC noted that the number of BNPL transactions has increased by 90 per cent from around 17 million in 2017-18 to 32 million in 2018-19.⁷ BNPL adoption is expected to continue as consumer habits change and traditional credit products such as credit cards decline in popularity.⁸

BNPL arrangements operate on top of or in conjunction with existing payment systems but can also be used at the point of sale. This has led to questions as to whether such arrangements constitute a payment system, and the RBA in its ongoing review of retail payments regulation is examining the 'no-surcharge' rule imposed on merchants by some BNPL providers.⁹

Regulation internationally has also developed in response to the growth of BNPL. In the UK, the Financial Conduct Authority released additional guidance on BNPL practices last year, including disallowing backdated interest and encouraging greater transparency, such as prompting consumers before interest is going to be levied. However, in countries such as the USA, there is little-to-no regulation of BNPL.

The emergence of the BNPL industry has raised questions as to whether the regulatory architecture is flexible and adaptable to determine whether new innovations such as BNPL are payment systems, and if so, how the regulatory framework should regulate new forms of payment.

Stablecoins and cryptocurrencies

The term 'cryptocurrency' is generally used to describe a digital asset in which encryption techniques are used to regulate the generation of additional units and verify transactions on a blockchain. Early examples of cryptocurrencies such as Bitcoin generally operated independently of a central bank, central authority or government. Stablecoins are an attempt to address the high volatility of 'traditional' crypto-assets by tying the stablecoin's value to one or more other assets, such as sovereign currencies.

The International Monetary Fund, Financial Action Task Force and the Financial Stability Board are developing advice on stablecoins to improve coordination and oversight by domestic authorities at an international level. On a domestic level, the RBA and the Treasury have conducted reviews relating to cryptocurrencies more generally. The RBA has released an evaluation of Retail Central

7 ASIC, 'REP 672 – Buy now pay later: An industry update' (November 2020), available at: <<https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-672-buy-now-pay-later-an-industry-update/>>.

8 Ibisworld, 'Buy-now-pay-later a new retail dynamic has everyone's attention' (13 July 2020), available at: <<https://www.ibisworld.com/industry-insider/press-releases/buy-now-pay-later-a-new-retail-dynamic-has-everyone-s-attention/>>.

9 RBA, 'Review of Retail Payments Regulation – Issues Paper' (2019), available at: <<https://www.rba.gov.au/payments-and-infrastructure/review-of-retail-payments-regulation/>>.

Bank Digital Currencies (CBDCs) and the Treasury released an Issues Paper on Initial Coin Offerings in 2019.¹⁰

Industry feedback through these reviews indicate a lack of clarity in the system on whether crypto-assets are governed as 'financial products' and therefore subject to ASIC regulation, or are other products that fall under general consumer protection laws governed by the ACCC.

Cross-border payments

With the growth of online shopping and the global reach of business services, cross-border payments have grown in importance for consumers, businesses and investors. While this trend is expected to grow, cross-border payments are typically slower, more costly and more opaque compared with domestic payments, and are subject to inconsistent and complex rules.¹¹

The regulation of cross-border retail payments in Australia is shared among several regulators. AUSTRAC is responsible for ensuring compliance with the AML/CTF Act. The RBA, in addition to its regulation of domestic payment systems, also supervises the marketplace for cross-border payments. The ACCC maintains a competition focus on the market and also observes consumer outcomes.

A 2019 report by the ACCC into Australia's foreign currency conversion services found that a confluence of factors led to Australians facing high costs when remitting money abroad.¹² These factors included a lack of price transparency, consumer inertia and a lack of strong competitive forces in the industry. The ACCC also identified regulatory requirements such as due diligence and AML/CTF requirements as potential barriers to new entrants and recommended action to assist firms meeting such requirements.

In October this year, the G20 committed to a roadmap to enhance cross-border payments. The roadmap addresses the key challenges often faced by cross-border payments and the frictions in existing processes that contribute to these challenges.¹³

Some of these challenges arise from technological change in the use of data, with increasingly sophisticated data standards being adopted internationally to better facilitate data-rich payments and ensure standardisation across countries to make seamless cross-border payments. The RBA is currently undertaking work with industry on ISO 20022 standardisation in Australia and these developments demonstrate the growing importance of data and technology in payments, and the need for agile regulatory frameworks and flexible systems to harness their benefits.¹⁴

Digital wallets and stored-value facilities

Over recent years technology companies have partnered with Australian banks and other financial institutions to offer payment services through digital wallets. While these services are focussed on

10 RBA, 'Retail Central Bank Digital Currency: Design Considerations, Rationales and Implications' (17 September 2020), available at: <<https://www.rba.gov.au/publications/bulletin/2020/sep/retail-central-bank-digital-currency-design-considerations-rationales-and-implications.html>>.

11 Financial Stability Board, 'Enhancing Cross-border Payments - Stage 1 report to the G20' (9 April 2020), available at: <<https://www.fsb.org/2020/04/enhancing-cross-border-payments-stage-1-report-to-the-g20/>>.

12 ACCC, 'Foreign currency conversion services inquiry: Final report' (July 2019), available at: <<https://www.accc.gov.au/publications/foreign-currency-conversion-services-inquiry-final-report>>.

13 See Financial Stability Board, 'Enhancing Cross-border Payments: Stage 3 roadmap' (2020), available at: <<https://www.fsb.org/2020/10/enhancing-cross-border-payments-stage-3-roadmap/>>.

14 RBA and the Australian Payments Council, 'ISO 20022 Migration for the Australian Payments System – Conclusions Paper' (February 2020), available at: <<https://www.rba.gov.au/publications/consultations/202002-iso-20022-migration-for-the-australian-payments-system/pdf/iso-20022-migration-for-the-australian-payments-system-conclusions-paper.pdf>>.

convenient payment solutions, they are largely based on existing payment methods and simply link a credit or debit card to proprietary software to channel payments.

In the future, with changing technology and regulatory reforms to the way stored-value facilities are regulated, it is possible that digital wallets can provide their own payments infrastructure so that consumers can store funds in them like traditional bank accounts. This second, more developed use of digital wallets is popular in countries such as China where providers allow for end-to-end payments services, offering consumers another way of making electronic payments without the need for a card or a bank account.

The government announced in the 2020-21 Budget changes to the way digital wallets would be regulated based on a Council of Financial Regulators (CFR) report on Stored-value Facilities to ensure regulations are graduated to the types of industry players and the risks they pose to the system.¹⁵ In light of these reforms, the regulatory architecture considerations which arise specifically from digital wallets will not be considered in this review, and they are noted here only to provide a clearer picture of the evolving landscape.

Consumer Data Right and Open Banking

The Consumer Data Right (CDR) gives customers the right to safely share data held by businesses in the sectors where it is applied with accredited, trusted third parties of their choice.

The CDR could have a significant impact on innovation in the payments landscape by allowing the authorisation of third parties to give payment instructions and move consumers' money between accounts. This could see more entrants into the market providing innovative payments services.

While the CDR will not directly change the infrastructure supporting payment systems or its associated regulation, it could have a significant impact on the technology and related services that consumers use when making payments.

Questions

6. What are the required features of a future regulatory architecture to ensure it is well-placed to meet the needs of end-users in relation to emerging innovations in the payments system such as those discussed above? Are changes needed to existing structures, roles and mandates involved in the governance of the system?
7. What regulatory architecture is needed to provide support and clarity for businesses – particularly new entrants – to invest and innovate in our payments system?
8. How can the regulatory architecture enable participants in the payments system to make better use of data to improve cross-border payments and other payments that benefit end-users?
9. Given rapid changes to the system, what need is there for education for end-users (including consumers and businesses) about payments and who should provide that education?

15 See Council of Financial Regulators, 'Regulation of Stored-value Facilities in Australia: Conclusions of a Review by the CFR' (November 2020), available at: <<https://www.cfr.gov.au/publications/policy-statements-and-other-reports/2020/regulation-of-stored-value-facilities-in-australia/>>.

International comparisons

Several countries have made recent changes to their regulatory architecture and frameworks to support innovation, with the UK, Singapore and New Zealand briefly described below.

In 2013 the UK government published a consultation, which proposed a new, competition-focused, utility-style regulator for retail payment systems in the UK. In 2015, this regulator was established as the Payment Systems Regulator (PSR). The PSR is independent, funded by the industry and accountable to Parliament. Its statutory objectives are promoting business and consumer interests, competition, and innovation of payment infrastructure.

The Monetary Authority of Singapore (MAS) was established as a statutory board under the Monetary Authority of Singapore Act in 1970. As part of its mission, MAS oversees the payments system to ensure its overall safety, efficiency and development.¹⁶ MAS updated the payment regulatory framework in 2018 to better encourage innovative businesses and products.

Payments NZ Limited (PNZ) was established in 2010 and assumed responsibility from the New Zealand Bankers' Association (NZBA) for managing payments system rules relating to the clearing and settlement of payments. PNZ was established as an industry self-regulatory body to ensure that there are objective and publicly-disclosed criteria for participation in clearing and settlement systems. An objective of this was to allow non-bank institutions to participate directly in the payments system rather than through agency relationships.

Questions

10. How does Australia's regulatory architecture compare with that of other jurisdictions, particularly as it relates to the encouragement of innovation and competition?
11. Are there any lessons from international experiences that can improve Australia's regulatory architecture to ensure it responds effectively to new developments in the future for the benefit of end-users?

¹⁶ MAS is Singapore's central bank. Beyond the regulation of payments, it conducts monetary policy, issues currency, and manages the foreign reserves. It also regulates the banking, insurance, securities and the financial sector in general.

Annex I

List of consultation questions

1. Does the regulatory architecture appropriately facilitate the development of an overall vision, strategy and principles for the Australian payments system?
2. How should our regulatory architecture be designed in order to balance the management of risk and efficiency in the payment system with the need for effectiveness for end-users?
3. What is the appropriate balance between self-regulation, formal regulation and government policy to ensure the payment system continues to work in the best interests of end-users?
4. Are there gaps (or duplication) in the current architecture that need addressing to ensure the system continues to work in the best interests of end-users?
5. How should the regulatory architecture be designed to best facilitate the coordination of participants and regulators to meet the requirements of end-users?
6. What are the required features of a future regulatory architecture to ensure it is well-placed to meet the needs of end-users in relation to emerging innovations in the payments system such as those discussed above? Are changes needed to existing structures, roles and mandates involved in the governance of the system?
7. What regulatory architecture is needed to provide support and clarity for businesses – particularly new entrants – to invest and innovate in our payments system?
8. How can the regulatory architecture enable participants in the payments system to make better use of data to improve cross-border payments and other payments that benefit end-users?
9. Given rapid changes to the system, what need is there for education for end-users (including consumers and businesses) about payments and who should provide that education?
10. How does Australia's regulatory architecture compare with that of other jurisdictions, particularly as it relates to the encouragement of innovation and competition?
11. Are there are lessons from international experiences that can improve Australia's regulatory architecture to ensure it responds effectively to new developments in the future for the benefit of end-users?

Annex II

Reference list

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