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SVF Submissions
Payments Policy Department
Reserve Bank of Australia
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By email: svfsubmissions@rba.gov.au

Dear Sir or Madam

PayPal welcomes the Council of Financial Regulators Review of the Retail Payments Regulation in regard to stored value facilities and would like to make the following observations:

1. PayPal agrees with the conclusions from both the Murray Financial System Inquiry and Productivity Commission's final report that Purchased Payment Facilities face complex and potentially stunting regulation that can deter entry and expansion, and that APRA's PPF regime involves significant compliance costs and creates perverse incentives[1].

2. PayPal does not, however, agree with the Productivity Commission's proposed graduated regulatory regime. The introduction of an additional layer of regulation and complexity based solely on the size and scale of an entity will exacerbate the perverse incentive for a company to limit their growth to avoid entering APRA's PPF regime.

3. Setting thresholds based on stored value size to determine the regulatory regime applicable will exacerbate the regulatory complexity of Australia's existing regime and could lead to business models being designed to specifically avoid transitioning from ASIC's oversight to APRA's prudential supervision.

4. Currently the disparate regulatory requirements and standards applied by multiple government agencies creates confusion and contributes to competitive distortions for the different players in the retail payments ecosystem.

5. The Government should introduce one consistent Retail Payment Services framework, overseen by a single regulatory entity, that clearly identifies the licensing requirements for all "fintech" related and payment service providers based on activity and risk, and designed to ensure customers - both merchants and consumers - are protected. PayPal supports the development of a modular, consolidated activity and risk-based regulatory framework.

[1] Productivity Commission "Competition in the Australian Financial System" June 2018 – page 498

6. Consideration should be given to the approach being proposed with Singapore's Payment Services Bill which will introduce "a more calibrated regulatory regime, applied on an activity basis to payment service providers, and will allow regulators to better address specific issues such as consumer protection, access and corporate governance".[2] This approach allows flexibility in the future to address emerging and innovative products and services, and provides scope for regulators to effectively manage emerging risks such as cyber security, AML/CTF and interoperability.

7. In Australia, areas of regulatory oversight that require harmonisation to ensure consistency in regulatory approach include: governance and risk management standards, AML-CTF regulations, unregulated and regulated credit and non-ADI lending, consumer protection, cyber security and data protection. PayPal also supports the Productivity Commission's recommendation to mandate the e-Payments code.

8. A single consistent regulatory approach for safeguarding customer funds should apply to all licensed entities providing stored-value like products. This new uniform approach should allow for entities to protect consumer funds through mechanisms that mitigate the risks associated with the product offering of the particular payment business. A range of asset types should be allowed to be used to protect consumer balances including secure low risk assets for safeguarding the consumer balance and funds in transit onshore or offshore. The recommended asset types would ensure that all users have access to their funds on a timely basis as well as:

   - Provide for the safety and preservation of principal balances;
   - Maintain sufficient liquidity balances to meet operating and capital allocation requirements;
   - Optimize investment returns while diversifying risk;
   - Ensure counterparty risk diversification.

9. The retail payments systems regulatory framework should be distinct from the current Authorised Deposit Taking Institution regime. APRA's guidelines on authorisation of providers of purchased payment facilities confirms PPF providers are not authorised to conduct general banking business and are restricted from accepting deposits for the purpose of making advances of money. It is this fundamental principle that distinguishes "stored value" from bank deposits, and the risk types that flow from those activities.

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[2] Monetary Authority of Singapore: ibid page 4

10. The categorisation of PPFs as a limited ADI should be abolished. Categorising PPFs as ADIs produces unintended consequences in other legislative areas that tie obligations to ADIs without qualifications, inadvertently stunting growth and stymying competition in the industry[3]

11. The concept of a "purchased payment facility" has no international equivalent and should be updated to reflect a more contemporary and principles-based regulatory approach to stored value facilities. Consistency in regulatory approach with other jurisdictions such as the European Union's PSD2, UK, Canada and Singapore should be considered. Consideration should be given to adopting globally consistent standards and language.

12. The introduction of Open Banking and ACCC's consideration of the accreditation framework for non-ADI data recipients should be included in the development of a consistent Retail Payments Systems regulatory framework.

In response to the CFR's request for feedback on issues relevant to the industry outlook for stored value facilities, the benefits to consumers of stored value facilities in the context of what is already available (credit cards and bank deposits) and the extent to which providers of stored value are likely to expand and differentiate their services, PayPal would like to make the following observations:

As highlighted in the Monetary Authority of Singapore's consultation paper in 2016, with technological advancement, the lines between payment systems, stored value facilities, and remittances are blurring rapidly.

The payments ecosystem – banks, merchant acquirers, processors and other providers – is becoming more complex and integrated. A single payment service provider may acquire transactions for multiple payments systems, and simultaneously offer SVFs to customers. The provider could also decide to leverage its customer base to offer cross-border remittances or facilitate on-line payments to overseas merchants. Similarly, a remitter, which traditionally accepted cash at a physical storefront, can now allow a customer to fund payments through a stored value facility or directly from a bank account.[4]

In Australia, smart phone ownership and use is close to ubiquitous and mobiles have become an essential tool for Australians in everyday life. PayPal's most recent m-commerce report found almost three quarters of Australians are smartphone owners (72%) and use their mobile phones to shop or make payments.

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[3] For example, the application of the Banking Executive's Accountability Regime and the proposed introduction of Principal Integrity Officers will both apply to PPFs unless specific exemptions are granted.

[4] Proposed Activity-based Payments Framework and establishment of National Payments Council, Consultation Paper, Monetary Authority of Singapore August 2016

E-wallets accessed through mobile phones and other applications (apps) are rapidly replacing traditional forms of payments. Consumers, especially millennials, no longer want to carry around plastic cards when apps can offer tailored customer discounts, travel cards, refunds direct to a customer's loyalty account rather than a credit card, pay ahead functionality and remembering purchase payment preferences and payment details at a touch.

Intermediary platforms like home or ride sharing platforms rely on a range of functionality for their payment services including holding and dispersing value at various times during a transaction – deposits for accommodation, fees for services etc.

The development of contextual commerce - the ability for merchants to seamlessly introduce purchase opportunities into everyday activities and natural environments - continues to evolve. Contextual commerce requires that different organisations – payment providers, retailer, analytics vendor, marketing and advertising players, and context content providers – collaborate with each other in a seamless manner. This includes sharing consumer information in a trusted and vaulted way, and respectful of consumer and data protection rules. It is important that this changing behavior is considered in future discussions on consumer safeguards and data protection.

PayPal in Australia

PayPal Australia is regulated as a limited ADI with authority to provide purchase payment facilities (PPF). PayPal is the only PPF authorised by APRA since the introduction of the PPF regime in 1998. PPF providers are not authorised to conduct general banking business and are specifically restricted from accepting deposits for the purpose of making advances of money. PPF providers must hold at all times high quality liquid assets equal to its stored value liabilities (as per APS 610).

As a limited ADI, Purchased Payment Facilities are a reporting entity for the purposes of the AML/CTF Act. PayPal provides five designated services (Items 1,2,3, 29 and 30).

PayPal Australia also holds an AFS license to provide non-cash payment products and was the first company to sign the e-Payments voluntary code of conduct.

PayPal is a digital wallet provider that allows buyers and sellers to send and receive payments online. PayPal Australia currently has 7.5 million active accounts, of which 7 million (93%) are consumers and about 520,000 are merchants. The majority of merchants are small to medium sized businesses that use PayPal for the sale of goods and services.

Large and more established merchants often offer PayPal as a key payment platform. Many smaller Australian sellers also used PayPal because they lacked resources or merchant card facilities to accept card/bank payments. PayPal provides an easy, seamless capability to accept electronic payments that is quick and low cost to set up.

PayPal runs on top of the existing banking and credit card infrastructure, aggregating disparate financial services in the PayPal wallet and providing consumers with choice of how they wish to pay.

PayPal's core business process enables two entities, a sender and a receiver, to be party to an online payment transaction using their existing financial instruments, such as credit cards, debit cards and bank accounts. Customers can hold stored balance in their PayPal accounts and can withdraw those funds to a linked bank account or pay for goods and services or person to person (P2P) transactions within the PayPal networks. No interest is paid on customers' stored value accounts.

PayPal adds value to the financial tools that customers already own by providing additional security and ease-of-use features, making both domestic and cross-border online payments safer, faster and easier.

Thank you again for the opportunity to comment on this consultation. Please feel free to contact us should you wish to discuss PayPal's submission in greater detail.

Sincerely,

N. Matthews

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