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Australian Payments Network (AusPayNet) welcomes the opportunity to make a submission to the Parliamentary Joint Committee on Corporations and Financial Services inquiry into Mobile payment and digital wallet financial services (the Inquiry).

Given AusPayNet's focus, our submission does not cover the nature of commercial relationships that exist between providers of mobile payment digital wallet services and users. Our submission focuses on the implications of mobile payment and digital wallet services for licensing and consumer protection.

### About AusPayNet

AusPayNet is the industry association and self-regulatory body for the Australian payments industry. AusPayNet manages and develops regulations, procedures, policies and standards governing payments clearing and settlement within Australia. Through our network, AusPayNet brings together service providers, government, regulators and other stakeholders to improve the Australian payments system. We do this by promoting competition and innovation, delivering efficiency and controlling systemic risk; this creates a shared purpose that engenders confidence in the payments system. We have over 130 members, including financial institutions, card schemes, merchants such as Coles and Woolworths, new digital banks such as Volt and Judo, and other payments industry stakeholders such as PayPal and Google.

### Regulatory Developments

The regulatory regime that has emerged to cover Purchased Payment Facilities (PPFs) as it is presently regulated in Australia is inconsistent and complex, does not adequately incorporate new business models, and can be overly burdensome. This has been recognised by government and regulators as an area in need of regulatory reform.

The [Financial System Inquiry \(FSI\)](#) report in 2014 recommended the introduction of a separate prudential regime with two-tiers for PPFs. The [Productivity Commission Inquiry into Competition in the Australian Financial System](#) in its final report in 2018, recommended the Council of Financial Regulators (CFR) review the PPF regime but design a tiered regulatory structure for PPFs, including one tier that does not attract prudential regulation. The CFR undertook the [Review of Retail Payments Regulation: Stored-Value Facilities](#) (SVFs) in 2018. The [final report](#) was released in November 2020.

The CFR recognised the potential of digital and mobile wallets to play a more prominent role in the payments system, and the need to simplify the regulatory framework in a way such that it aids and adapts to innovation. The report provides eleven recommendations including that SVFs “should be introduced as a new class of regulated product, replacing ‘purchased payment facilities’ in the regulatory framework.” It also states that “The Australian Prudential Regulation Authority (APRA) and the Australian Securities and Investments Commission (ASIC) should be responsible for regulating and licensing SVF providers, consistent with their respective mandates for prudential supervision and consumer protection. The Reserve Bank of Australia (RBA) should no longer be involved in regulating individual providers of SVFs, helping to streamline regulation in this segment of the market.”

In November 2020 the Government announced it supported all 11 recommendations put forward by the CFR SVF Report and requested that Treasury work with APRA and ASIC to develop a reform package in close consultation with industry and consumer stakeholders<sup>1</sup>. The RBA Governor in an address at the AusPayNet’s Summit in December 2020 stated that digital wallets are being used more frequently and that he expected “this trend has a long way to go”<sup>2</sup>.

### Licensing and Consumer Protection

In our view, the amendments proposed by the CFR are a positive step in terms of the regulation of SVFs, but fall short because the payments industry now includes many participants that do not necessarily fit the definition of an SVF. In our view, it would be better to regulate all participants in the industry, i.e. all Payment Service Providers (PSPs), using a consistent framework (“same risk, same rules” approach).

In that regard, AusPayNet notes the impact of specific payment/fintech licenses in other jurisdictions and their role in stimulating innovation. These licenses have provided clarity around licence requirements, consumer protections and access. Moreover, they have stimulated growth in intermediary B2B payment service providers, focused on ensuring that businesses get paid.<sup>3</sup>

The introduction of an electronic-Money Licence could provide similar benefits in this market and AusPayNet supports the recent CFR announcement on SVFs. APRA’s Restricted ADI (RADI) licensing

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<sup>1</sup> Supporting Competition and Innovation in Payment Services, Senator The Hon Jane Hume, Assistant Minister for Superannuation, Financial Services and Financial Technology, 6 November 2020.

<sup>2</sup> Innovation and Regulation in the Australian Payments System, RBA Governor Philip Lowe, 7 December 2020

<sup>3</sup> Two examples are Curve ([www.curve.com](http://www.curve.com)) and Go Cardless ([www.gocardless.com](http://www.gocardless.com))

framework, “intended to support increased competition in the banking sector”, provides an example of the potential benefits of this approach.<sup>4</sup> It was acknowledged that the granting of a RADI licence represented a tangible milestone that could enable applicants to seek more funding, providing an alternative route in facilitating entry into the banking industry and potentially enhancing competition and outcomes for the public.<sup>5</sup>

Some markets (such as the United Kingdom and Singapore) have formal licensing of payment systems while others do not. Singapore has one comprehensive Payments Services Act licensing regime for platform companies, payment service provider and wallets. There are some key insights that emerge from global practice:

- There is a degree of convergence in terms of specific regulatory tools to encourage competition. Most markets possess (or are in the process of exploring/implementing) some mix of graduated or tiered licensing, fintech sandboxes or electronic money licence.
- Policymakers have sought greater regulatory clarity as a key enabler of innovation. This has been achieved by a variety of means: for example, the United Kingdom introduced a payments regulator, fintech sandbox and payments services licence. Singapore operates within a licensing environment in which payment services are licensed on both an activity and risk-basis.

While Australia has proposed the introduction of a streamlined SVF, this does not go as far as some of the licensing proposals in those countries. AusPayNet supports a “same risk, same rules” approach.

It is important to note that there are different types of digital wallets and that not all wallets offer a SVF. For example, some wallets enable consumers to register card payment products. In such cases, the provider of the digital wallet is not providing the consumer with a payment product.

In terms of consumer protections, AusPayNet supports the CFR recommendation that compliance with ASIC’s ePayments Code should be mandatory for payment product providers.

More broadly in terms of consumer benefit, it is important that consumers have sufficient choice of products and that these products provide appropriate levels of security to protect customer data.

Yours sincerely

Andy White

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<sup>4</sup> APRA (Apr 2018) *Phased Licensing for Authorised-Deposit Taking Institutions* ([link](#))

<sup>5</sup> APRA (Apr 2018) *Phased Licensing for Authorised-Deposit Taking Institutions* ([link](#))