

Payments System Modernisation (Licensing: Defining Payment Functions)

Feedback to questions 11 and 14

Given the definitions widening for "Payment System" and its "Participants" – as separately consulted on the reforms to the Payment Systems (Regulation) Act 1998, as well as the scope of what needs to be regulated (to include Payment Facilitation Services ("PFS")) in this consultation, care must be exercised to ensure that existing exemptions are still fit for purpose and sufficient.

The Low-value Payment Facilities exemption rightly excludes low-value activities, and this should be consistently applied to the extended regulatory scope. However it is premised on the limits of \$1,000 and \$10 million for making of non-cash payments under "all facilities of the same class". If an entity is involved in the PFS in addition to the issuance of stored value facilities and payment instruments, for e.g. for different types of cards but them being facilities of the same class, then these limits will be very low and insufficient as an aggregation cap. We will suggest that a deeper study on a nation-level be carried out to examine what are the limits that will be fit for purpose when applied to extended regulatory scope.

Feedback to questions 12 and 13

The incidental product exclusions, for example on Gift Facilities and Loyalty Scheme, should still be applied to the proposed list of regulated payment functions. They should however be further extrapolated.

Given the extended scope on PFS, if only pure technology services are provided to facilitate, authenticate, authorise, or process payment instructions for reloadable cards intended to be given as gifts or incentives this is not permissible under the current criteria (refer to criterion (a)(i)) of the Gift Facilities exemption. We will suggest that this exemption be reworded to be applicable to reloadable cards.

Where only technology services are involved in PFS i.e. where no money is transferred via the entity, and no payment instruments are issued, there may be merit in having a more accommodating exclusion so that is risk-base. It will be useful if the Treasury provides more clarity and examples on how pure technology provision will be regulated vis-a-vis the PFS proposed.

Feedback to question 15

We suggest the adoption of the "Commercial Agent" exemption. This exemption is provided for by Singapore's and UK's payment frameworks.

In such an exemption, the entity acts as an authorised agent for another person for the purpose of negotiating or concluding the sales or purchase of the goods or services on behalf of the other person, thereby playing an intermediary role whereby the principal remains as the responsible party. In implementing this similar exemption, a risk based approach is adopted so that regulatory attention is prioritised on higher risk entities.