

To:

Payments Licensing Unit

Financial System Division

The Treasury

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From:

Fiserv Australia

North Sydney

Consultation Paper Response

1. Are there any other principles that should be considered in developing the list of payment functions?

Yes, another principal consideration should be to consider operational efficiency and simplicity for PSP's to be able to understand and comply with regulations. Whilst recognising the importance of regulatory oversight it is recommended that consideration be given to the compliance requirements of existing regulatory frameworks and industry standards so that any new licensing requirements are not duplicating effort and/or imposing additional burden on business without incremental risk management benefits. This would require the regulator to assess the extent to which the existing frameworks already address the risks associated with the payment function and, where applicable, provision of exemptions to avoid duplication of compliance obligations.

For example, certain payment functions such as merchant acquiring are already subject to registration with Visa and Mastercard card schemes and with AUSTRAC. Card schemes requirements have controls in place to address some of the payment function risks such as protecting customer funds, cyber crime and reducing the risk and impact of fraud for merchants and consumers. Further, AUSTRAC compliance assists reduce AML, CFT and misconduct risks. As such, these existing frameworks should be taken into account in determining the regulatory approach.

2. Is the list of payment functions comprehensive, or should other functions be included?
The list appears to be comprehensive but should be reviewed periodically to keep up to date with new and emerging payment functions in the future.
3. Should all payment functions be treated as financial products under the corporation's legislation, or should some be treated as a financial service?
We agree that non-consumer facing payment functions should be treated as financial services and have non applicable requirements switched off.
4. Does the term 'payment stablecoins' accurately describe the types of stablecoins this paper seeks to capture for regulation or are there other terms that may be more appropriate?

- [No response](#)
5. Does the proposed definition of ‘payment stablecoins’ adequately distinguish itself from other stablecoin arrangements?
[No response](#)
6. Is regulation as an SVF an appropriate framework for the regulation of payment stablecoin issuers? If not, why? What would be an appropriate alternative?
[No response.](#)
7. Does the list of proposed payment functions adequately capture the range of payment services offered in Australia currently and into the future that should be regulated under a payments licensing regime?
[Yes, the proposed functions seem adequate. Whilst recognising the importance of regulatory oversight we would recommend that the regulator considers the compliance requirements of existing governance frameworks and industry standards so that regulatory requirements are not duplicating effort and/or posing additional burden on business without incremental risk management benefits.](#)
8. Does the list need to be broken down in more detail, for example, should facilitation, authentication, authorisation and processing be separate functions?
[We don’t believe so as further sub-categorization could potentially lead to complexity without any notable risk management advantages.](#)
9. Should any other payment functions be included?
[As per our response to \[7 and 8 \] above.](#)
10. Would the removal of the identified exclusions create unintended consequences?
[We are not aware of any unintended consequences.](#)
11. Which existing exclusions and exemptions applicable to non-cash payment facilities should be amended or removed to support regulation of the proposed payment functions? Do any existing exclusions or exemptions require updating, such as the relief for low-value facilities?
[We believe exemptions such as low value gift card relief should be reviewed further with a view to considering whether it could be potentially misused.](#)
12. Should the incidental product exclusion apply to the proposed list of payment functions?
[ASIC conditional relief should be moved into primary legislation or regulations to provide greater certainty to industry. Gift cards that can be purchased via cash should not be granted relief as they provide options for anonymous users to place funds into the payments system.](#)
13. Should any exclusions or exemptions be revised to be more consistent with comparable jurisdictions? For example, should the ‘single payee’ exclusions and relief for loyalty schemes, electronic road toll devices, prepaid mobile phone account and gift cards be replaced by a general exclusion for payment instruments that can be used only in a limited way?
[The current exclusion gives clarity on the types of services that are exempt. A movement to a generic exclusion for “payment instruments that could be used in a limited way” would require very concise criteria to provide clarity on whether a service meets the exemption. This may be difficult to achieve and therefore create more confusion for PSP to determine if they are exempt or not.](#)
14. Should the exclusion for low value facilities apply to any PFS, such as money transfer services? If so, what thresholds should be considered a low value PFS?

- We do not believe any exclusion should be applied to money transfer services due to the nature of that activity.
15. Should any other exclusions or exemptions be provided?
Appropriately scoped exemptions or exclusions should be considered for payment service functions that are governed by other frameworks such as card schemes or industry bodies that have compliance requirements that address the risks of the payment function. Without considering such exclusions the proposed regulations may stymie innovation and competition in the Australian market.
16. Are there any other risk characteristics of a payment function that should be considered?
The identified risks seem adequate.
17. What are the types of payment risks posed by the performance of each of the proposed payment functions?
Others specific risks that have not already been described in the paper may include age restriction controls, vulnerable people risks and AML risks of anonymous users in the payment's environment.
18. While having regard to the obligations proposed to be imposed on the payment functions (outlined in Section 7), are the risks posed by the performance of each payment function appropriately mitigated by the payments licensing regime? Or are they more appropriately addressed by a framework outside of the payments licensing regime such as the PSRA or AML/CTF Act?
Certain payment functions such as merchant acquiring are effectively governed by AUSTRAC and card schemes and as such appropriately scoped exemptions should be considered.
19. Is the proposed risk-based approach to applying regulatory obligations appropriate?
Yes
20. Should payment functions that are not customer facing be required to hold a payments licence? Should providers of these non-customer facing payment functions have different regulatory obligations, such as only having to comply with relevant industry standards?
Where the payment function risks are effectively controlled via industry standards and existing governance frameworks this should be considered sufficient.
21. Should the common access requirements and industry standards be linked to the payments licence? For example, would it be appropriate for some entities to only be required to comply with mandatory industry standards but not be required to hold an AFSL or comply with the ePayments code?
Yes, compliance with existing governance frameworks such as card scheme compliance should be sufficient whereby the industry standard or governance framework have been assessed as suitable to manage the risks associated with that payment function.
22. What types of businesses should be subject to the common access requirements? There is limited information available on the number and size of non-bank PSPs interested in directly participating in Australian payment systems to clear and settle payments. If this is something that your business is interested in, please provide further information (including via a confidential submission).
No response.
23. Further information is sought to help identify the number and profile of participants that perform each payment function and therefore may potentially be affected by the new licensing framework.

We can respond to this query from our own perspective. Fiserv is currently registered with AUSTRAC as a provider of designated services related to our merchant acquiring business. This new licensing framework could see our company subject to new additional licensing requirements for payment initiation services; payment facilitation, authentication, authorisation and processing services; and payments clearing and settlement services which could add considerable time, effort, and costs to our business.

The proposed changes may also impact our merchant customers who provide stored value facilities or money transfer services and other service providers in the merchant acquiring business such as payment gateways and terminal providers.

The licensing proposals could also impact our clients in other parts of our business where we provide services to card issuers or sponsorship and exchange settlement services to other FI's and NFI's.

24. How can the payments licensing processes across regulators be further streamlined?
We agree with having one contact point for the licensing and where responses to licence requirements are relevant to other regulatory bodies, they should be shared with those bodies to avoid duplication of effort.
25. Is the proposal to provide central guidance and a website portal for PSP licensing processes a good alternative to the single point of contact proposal recommended by the Payments System Review?
Yes