Revolut Payments Australia Pty Ltd
222 Exhibition St Melbourne, Vic 3000

Director
Payments Licensing Unit
The Treasury

By email: paymentslicensingconsultation@treasury.gov.au

20 July 2023

Payments System Modernisation (Licensing: Defining Payment Functions) - Consultation Paper June 2023

Introduction:

Revolut Payments Australia Pty Limited ("Revolut Australia") welcomes the opportunity to comment on Treasury's consultation paper. As a fast growing subsidiary of a significant international payments company, we are a direct stakeholder in the future of the Australian payments system.

About Revolut

Revolut Australia is part of the global Revolut group (Revolut), a financial technology group of companies offering financial services to both retail and business customers. Revolut was founded in 2015 in the UK. It now has operations in 40 countries, over 32 million retail customers globally, more than 500 thousand business customers and over 6,000 employees.

Revolut Australia received its Australian Financial Services Licence (AFSL) in May 2020 and has since been building its presence in Australia. It received its Australian Credit Licence in February 2022 and is in the application process for an Australian banking licence. Revolut Australia currently serves approximately 300,000 customers.

Revolut's core product offering in most of the markets in which it operates worldwide is a digital wallet and physical or virtual debit card. Money can be transferred electronically into the wallet where it is held as stored value either in local currency or another currency selected by the user. This can then be used for domestic or international payments through a variety of channels (card scheme, direct entry, NPP, direct P2P payments, International Revolut to Bank transfers.)

Revolut also offers a number of additional products that connect with its core offering, which, in Australia, include the ability to take a stake in crypto or commodities or trade US shares and ETFs.

General Comments:

Revolut Australia has previously expressed its support for the reform of payments regulation, including the creation of a simplified regulatory framework and licensing regime as was proposed by the Council of Financial Regulators. We have directly experienced the failures of the current framework to accommodate the innovation and changes in customer preferences that have occurred since the turn of this century. The current system does not support an efficient and competitive industry, to the detriment of Australian consumers.

In this submission we will respond directly to Treasury's consultation question where we have a relevant view on the question.

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

We think the suggested principles are suitable.

Question 2. Is the list of payments functions comprehensive or should other functions be included.

We think that the list is appropriate, noting that the list is intended to be subject to future amendment as necessary.

Question 3. Should all payment functions be treated as financial products under the Corporations legislation or should some be treated as financial services.

We suggest that the functions align to the current concepts of differentiating between financial products and services. In this respect we would expect additional classes of products would be added to 763A of the Corporations Act in the nature of, for example, a facility through which a person stores value; manages payment initiation; and manages the remittance of currency. The dealing and advice aspects related to those products would then be covered by the existing definition of "financial services".

Question 6. Is regulation as an SVF an appropriate framework for the regulation of payment stablecoin issuers? If not, why not and what would be an appropriate alternative.

The Revolut Group currently provides the ability for customers in certain jurisdictions to trade in cryptocurrency. In Australia this is provided through a "walled garden" approach where a customer can "buy" crypto by converting stored value in fiat currency into beneficial ownership in a crypto token, and can "sell" crypto by converting their holding back to fiat currency. They cannot deposit or withdraw cryptocurrency. We are not currently an issuer of cryptocurrency (including stablecoins) and do not currently offer trading in stablecoins, although we remain

interested in the future for such products.

We think that the inclusion of stable coins as a class of SVF is a novel approach which, while workable, may complicate and delay the SVF regulation as it will involve a set of risks and expertise beyond those of stored value. We would suggest that the regulation of stablecoins may be better managed through the anticipated regulatory framework covering cryptocurrency. That regulation will need to consider the categorisation of different classes of digital assets and is likely to require different rules for different assets but with a set of underlying principles that are relevant to all digital assets. Revolut Australia submits that this would be a better framework for regulating stable coins and would enable ASIC to develop greater expertise within a particular unit focussed on digital currency.

Question 7 Does the 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.

We think that the list is quite comprehensive. There will no doubt be some current service providers who do not fall neatly into those categories or within exemptions and ASIC is likely to require some further guidance to manage those edge cases. The list seems reasonable for the foreseeable future although consideration could be given to providing a Treasury power to add to the list, similar to the RBA's current power to designate payment systems under the *Payment Systems (Regulation) Act*.

Question 10 - 15 Exclusions

We support the exclusion of limited purpose facilities and the formalising of those categories from guidance to regulation. We agree that the regulations will need to be carefully worded to avoid businesses manipulating their offerings to exploit the exclusions (for example by offering rechargeable gift cards). If consideration is to be given to exclusions for "low value" PFS then the exclusion should take account of the total value that can be transacted through the facility rather than the total amount that can be stored. For example a prepaid debit card with a $1000 balance limit might be topped up and withdrawn daily, potentially facilitating hundreds of thousands of dollars in transaction value each year.

Question 17: What are the types of payment risks posed by the performance of each of the proposed payment functions?

The summary of risks associated with stored value payment services and money transfer services and payment processing are broadly in line with our own assessments in these areas of our business. We would add the risk of cyber attack and the growing external fraud / scam threat as other key considerations.

Question 18 Are the risks more appropriately mitigated by the proposed licensing regime or by frameworks outside the licensing regime (e.g PSRA or AML/CTF Act)? and

Question 19 Is the proposed risk based approach to applying regulatory obligations

appropriate?

We would not see the proposed licensing regime for the majority of applicants as being a particularly strong mitigant to the operational risks facing payment businesses. While ASIC currently gives some consideration to the ability of licensees to manage operational risks through the competence of its responsible managers and ASIC's review of process during the application phase, this is a very limited review. In contrast, APRA's requirements to manage and evidence the management of operational risk for banks is very high both at application stage and ongoing. We think that difference is appropriate.

We think that the proposed response to these risks through a tiered approach with some additional operational standards (as proved on page 28 of the consultation paper) is sensible, as is some level of supervision by APRA over large scale stored value providers. The proposed regime will not, and should not replace complimentary risk frameworks such as those required under the AML/CTF Act.

Question 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?

We think the answer to this question lies in whether the functions provided by the entity meets the definitions of financial products and services. That is consistent with the current licensing requirements for entrants into the financial services industry. Once within the regulatory framework the compliance burden then varies depending on whether services are offered to retail customers. We would expect that regulation of PSFs would follow the same principle.

Question 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?

We think it would be beneficial that access to the payment systems be predicated on the obtaining of an AFSL. The current restrictions on access to a number of payment gateways and settlement services that are restricted to ADIs creates an unreasonable limitation to competition and is not consistent with the risk posed by allowing access to those systems. The bar to achieving an AFSL is appropriately lower and cheaper to obtaining a banking licence. Restricting access to AFSL holders, in our view, would have a negligible adverse impact on competition while allowing the providers of those gateways and services the benefit of an extra level of comfort that the parties accessing those systems risk the withdrawal of the AFSL or other regulatory consequences in the event of significant failures or misconduct.

Question 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).

We would expect most PSFs would wish to seek direct access to payment systems when they reach a scale of transactions where it is more economical than accessing through a third party. The size of the PSF likely to wish to seek direct access may differ greatly depending on a number of factors that go into their financial model including their internal implementation costs and their growth forecasts.

Question 23 How can the payments licensing processes across regulators be further streamlined?

Under the proposal, Revolut Australia would be a Major SVF. It is proposed that APRA would be responsible for prudential aspects of a Major SVF licence. Currently there is very little detail of what this licence application would entail and what any ongoing supervision by APRA would look like. We understand that Treasury will look to detail those measures in a further round of consultation.

We submit that the licence application for a major SVF should not be modelled on the current application requirements for a PPF ADI. In our submission the burden to achieve a PPF licence and the time required to achieve that status is not reflective of the risks associated with stored value services. As a current ADI applicant for a full banking licence we fully understand the need for extremely high levels of governance, control and scrutiny when accepting deposits which are not safeguarded and may be utilised for lending or investment purposes. The risks are inherently different for a stored value provider which may only invest in high quality liquid assets, and the risks are extremely low if the provider holds the stored funds in an ADI account on a 1:1 basis. While APRA recognises this low risk profile in its capital requirements for PPF ADIs, it does not appear to be reflected in the licensing process for a PPF which in our observation remains long and arduous.

In the European and Asian markets in which we operate the equivalent licensing requirements for stored value providers, even of large scale, are relatively simple in comparison to the requirements for a bank licence in those territories and are substantially less than those required for an Australian PPF ADI. Each of those jurisdictions requires the safeguarding of customer funds which must be held on a 1:1 basis and typically with a bank within the region.

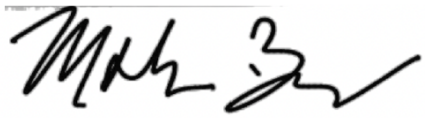
In our submission Treasury should work with APRA to determine licensing requirements which appropriately reflects the risks of a major SVF and also recognises their operating history as a standard SVF.

In considering the next level of detail for licensing Treasury should also consider the following transition scenarios:

1. Transition from current PPF to Major SVF
2. Transition from current AFSL holder to Major SVF
3. Future transition from standard SVF to Major SVF.

In respect of the third scenario in particular, Treasury should consider how the transition and new licence requirements may impact the growth of the licensee. IF the current proposals were applied without transition exemptions a standard licensee could potentially be prevented from growing its customer base beyond $50 million if its expectation of license timing is not met. This may be as much influenced by APRA's resourcing as by any action or failure of the applicant. Such a restriction could have major implications on the business particularly if it has increased its cost base to meet licence expectations but is prevented from increasing its revenue base.

We look forward to further consultation and the early implementation of a new licensing framework. If you require further information or clarification on any of our comments, please contact Scott Jamieson at scott.jamieson@revolut.com.



Matt Baxby
CEO
Revolut Australia and NZ

Scott Jamieson
Chief Compliance Officer
Revolut Australia and NZ