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Assistant Secretary
Payments System and Financial Innovation Branch
The Treasury
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Dear ██████████

Payments System Modernisation (Licensing: Defining Payment Functions)

Westpac Group (**Westpac**) appreciates the opportunity to provide a submission to the consultation paper on the Government's proposed introduction of a modernised payments licensing framework (**the consultation paper**).

The payments system underpins our economy and financial system, acting as a key enabler of economy activity. It's therefore vital that the regulatory settings ensure safety and security, while also fostering innovation. The modernisation of the payments licensing regime to capture and regulate new payment service providers will be fundamental in safeguarding consumer interests, while continuing to strengthen the overall integrity of the system.

It's noted that the Australian Banking Association (**ABA**) has also provided a detailed submission on behalf of its members, which Westpac supports. The following matters are raised in addition to those in the ABA submission.

Licensing framework

Westpac supports the proposal to broaden the licensing regime to a wider range of payment functions and the application of the Australian Financial Services License to these functions. However, the incorporation of the proposed payment functions into law will require careful consideration of the type of obligations that will apply and in what circumstances they will apply. For example, it may be appropriate for all payment licensees to comply with general obligations under the *Corporations Act 2001*, but not appropriate for consumer-based requirements (e.g. disclosure requirements, anti-hawking prohibitions and Design and Distribution Obligations) to apply to a payment function that is not consumer facing such as payments clearing and settlement.

In establishing the new framework, the Government will need to also consider an appropriate transition period for compliance of the proposed new payment licensing regime to allow existing licensees time to review and communicate relevant changes with its customers.

Scope of regime

The consultation paper notes the intersection of payment initiation services with action initiation under the Consumer Data Right (**CDR**). Westpac's view is that action initiators in the CDR that trigger payment requests on behalf of the customer should be considered payment initiation services under the proposed payments licensing regime. They therefore should be subject to the same requirements and obligations.

In the event the Government designates payment initiation under the CDR, then action initiators should simply comply with these new payment licensing obligations rather than the Government establishing a whole new set of requirements and obligations under the CDR.

Regulatory coordination

Given the interlinkages between the proposed payment licensing regime, the reforms to the *Payment Systems (Regulation) Act 1998*, the prudential regime and critical infrastructure regulation, it will be vital for the Government to take a holistic approach to the various reforms to avoid duplicative regulation and ensure consistency in application among the various payment system regulators.

Payment stablecoins

Westpac supports the introduction of the payment stablecoin function and the proposal to regulate payment stablecoins under the stored value facility (**SVF**) category. This is particularly important with the increased emergence of the new types of service providers that utilise stablecoins to provide novel SVFs and payment facilitation services (**PFS**) without the need for traditional fiat bank accounts. However, we highlight the following key considerations.

Definition

The consultation paper defines payment stablecoins and notes that they are distinct from crypto assets, even though they can be used to procure the latter. Given this definition, the Government will need to ensure that the regulatory requirements across the various regulators (APRA, ASIC, AUSTRAC, ATO) related to reporting and risk management of crypto assets, including Tier 1 capital requirements, are aligned with this distinction and specifically exclude payment stablecoins issued or stored by the market participants.

This definition will also need to clarify whether central bank digital currencies are to be classified as payment stablecoins.

Collateral

The consultation paper expects stablecoin issuers to maintain adequate reserves. Given the risk associated with stablecoins, there needs to be careful consideration of what adequate reserves are required including the amount and form of liquid assets issuers are to hold. In addition, issuers should be prohibited from any form of lending, rehypothecation against these reserves to ensure that they are always available in full.

Level playing field

The consultation paper notes that payment stablecoins are essentially AUD-denominated bearer instruments (i.e. akin bank cheques). However, unlike bank cheques, stablecoins may be issued by non-ADIs/non-regulated entities incorporated anywhere in the world. It will be essential that these issuers are regulated in a similar fashion to ADIs with licensing conditions and appropriate prudential regulation such as credit, operational, cyber risk management practices to ensure they are not a threat to the stability and integrity of the system.

Compliance

As bearer instruments, stablecoins can be used in various scams and activities subject to anti-money laundering and counter-terrorism finance (**AML/CTF**) regulations. Further clarity is required as to the compliance obligations of stablecoin issuers (e.g. transaction traceability, enforcement of the travel rules, etc).

If you have any questions about this submission or other matters, please feel free to contact me.

Yours sincerely

Signed by

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