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Director
Payments Strategy and Policy Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

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Via email: paymentsconsultation@treasury.gov.au

Cuscal submission to the consultation on Winding down Australia's cheques system

Cuscal Limited (**Cuscal**) welcomes the opportunity to make a submission to Treasury on the proposed approach to winding down Australia's cheques system (**the Wind Down**), which follows the Government's announcement as part of its Strategic Plan for Australia's Payments System (Strategic Plan) to wind down the cheques system by no later than 2030.

Background to Cuscal

Cuscal is an Authorised Deposit-taking Institution (**ADI**) that provides payment and regulated data services to banks, FinTech and 'PayTech' enterprises and corporates, enabling those clients to provide services to their end customers. As a B2B provider, Cuscal facilitates its clients' connections to the infrastructure layer of the Australian payments market. Cuscal has been operating since the 1960s (through its earliest predecessor) and has evolved from its origins as an aggregator of services for mutual ADIs to a manufacturer of products and services in its own right, and a trusted payments solution provider across a diverse client base.

Cuscal has Board representation with Australian Payments Plus (NPPA, BPAY, Eftpos) the Australian Payments Network and participates in numerous industry committees and forums.


Introduction

Subject to the feedback enclosed in this submission, Cuscal is generally supportive of the proposed approach to the Wind Down outlined in the Consultation Paper, which aims to ensure the transition is orderly, users are adequately supported, and adverse impacts are minimised.

1. Key Workstreams

- ❑ Workstream 1 notes that the Government intends to reduce Commonwealth usage of cheques by working with agencies and departments with high cheque usage to develop a transition plan away from reliance on cheques. While this is a key pillar, greater clarity is required around how this will filter down to reducing state government usage, including intra-departmental fund movements. This may be intended to be covered by Workstream 4 but further clarity is required on how this will be achieved.
- ❑ Workstream 2 notes that the Government intends to support industry in promoting the use of, and removing barriers to, the adoption of alternatives to cheque products. Cuscal notes that Pexa usages in some states such as Tasmania and the Northern Territory will be a key impediment. They will either continue to rely on cheques for property settlement or will need to bear the cost of RTGS.





Industry body regulations (including the Law Society/Legal Practice Board and the REI) have historically been vague on the application of electronic payments in/out of trust accounts. Whilst there has been a general acceptance of this as a valid method of payment, these should also be reviewed along with the legislative review to remove explicit mention of cheque payments. Further clarity on approach and communication with relevant stakeholders should be considered to ensure an orderly transition in this workstream.

- ❑ Workstream 3 notes that the Government intends to change Commonwealth legislation that entrench the use and acceptance of cheques with a view to amending legislation. Cuscal notes that with many FIs are already exiting or removing cheques issuance, the timeline for this will need to be expedited. In addition, changes to legislation facilitating communication between cheques participants is vital to an orderly transition. Current anti-competitive legislative requirements preclude the industry from actively collaborating to ensure better support for users.


2. Transition

- ❑ The Government proposes 6 key conditions for ensuring a coordinated, staged transition. However, under the existing *Cheques Act 1986 (Cheques Act)* and *Australian Paper Clearing System* rules, a "co-ordinated" approach is prohibited (due to anti-collusion and anti-competitive behaviour requirements). To address this, legislation must be changed to allow Financial Institutions (**FIs**) to come together in this way. AusPayNet activity has also discouraged and restricted meaningful co-ordination and co-operation with each FI expected to make their own commercial decision as to their continuation in cheques.
- ❑ With many Tier 2s are already grandfathering cheque accounts, exiting from issuing and/or resigning from APCS, due to numerous prevailing issues including rising costs, end of life infrastructure, uncertainty of service, low volumes etc. Accordingly, the lead time of 6 years creates inequality for consumers and may cause confusion and concern. Cuscal notes the example provided by the paper of New Zealand's transition, which took just over 2 years. The Government needs to accelerate plans to ensure that there is not further divide between Tier 1s and Tier 2s. While New Zealand may not have had all of the same regulatory and practical characteristics, legislative amendments, particularly around competition law constraints, would provide Australian FIs with an advantage to coordinate an orderly transition.
- ❑ Cuscal does not support the proposed sequencing of the transition plan. Cuscal recommends the following sequencing instead, which if supported by Government intervention to allow FI co-operation, will provide for a clearer and more coordinated approach:
 - i. 2025: Cease issuance of personal and commercial cheques.

Many FIs have already removed new cheque accounts from active sale, removed the auto cheque trigger to order new books and transitioned individuals on to alternate payment methods. The feedback from Cuscal clients who have already transitioned away from cheques is that there was no significant reported instances of customer hardship or adverse impact off the back of the decision. The key elements for a successful transition were a long lead time and adequate user communication and education.

There is also a potential issue with separating commercial and personal accounts as sole traders/SMEs may be utilising a personal style account. Ceasing issuance for both categories at the same time will hence reduce confusion for users.

Given the small number of accounts actively using cheques and noting an accelerated transition away from the use of cheques during COVID, prioritising this sector in the transition sequence is a more logical approach and would stop users issuing cheques on old cheque books still in their possession towards the end of the transition. Conversely, moving



the cessation of bank cheques towards the end of the transition will provide users with options in certain cases.


- ii. 2026: Cease issuance of government and bank cheques. Cease acceptance of personal, commercial cheques.

Given bank cheques are typically for large purchases, such as property, Cuscal recommends the cessation of bank cheques be left towards the end of the transition. It would also act as to fill the gap between the personal/business cheque exit and end of cheques. However, to encourage the transition, a threshold amount for bank cheques could be implemented (e.g. min \$10,000.00). Generally, higher dollar value cheques are banked quicker, so a high threshold amount would remove the issue of users holding on to small value cheques until the end. Leaving bank cheques to last in the transition would also mean that the users struggling with the transition would be encouraged to continue face to face contact with their bank- facilitating touch points for banks to educate these users. This approach is supported by the data showing a general decline in cheques but a growth in the value of bank cheques in some states.

- iii. 2027: Cease acceptance of government and bank cheques. Close the cheques system.
- ❑ Consideration should also be given to tail end system clean up (particularly around presentment of Bank Cheques post wind up as they are different to personal/commercial cheques in that they have already been paid for.
- ❑ To support the transition FIs who have resigned should continue to have access to Bank@Post services as AusPost settles the credit to the receiving FI via card rails, not APCS. Cuscal recommends that the Government mandate this approach to enable FIs to resign from the clearing stream whilst continuing to support consumers and business who are receiving cheques from customers with a participating FI. Inequity in the deposit of cheques is something that most of Cuscal's clients are concerned with – while they can educate and redirect their own customers to alternative payment methods, they cannot control how their customers receive payments, for example Government issued cheques.
- ❑ Certain provisions in the *Cheques Act* should be retained during the transition, including those for post-processing co-operation, handing of dishonours, investigations, disputes, adjustments, and fraud require ongoing adherence. These should apply even once an FI resigns from the clearing stream. In addition, obligations around handling bank cheque presentments once an FI has changed activities and/or resigned need to be added.

3. Alternative payment methods

- ❑ Cuscal notes that NPP processing limits (which are set at an individual FI level) may restrict payments that are traditionally done by cheque and RTGS is typically a high-cost alternative. The gap between NPP and RTGS for mid-value payments should be considered by the Government as part of its review. Money orders may also be a viable alternative to personal/commercial cheques where a cheque is required for payment.
- ❑ The additional information needed for electronic payment (historically BSB and Account Number) can be simplified with the use of PayID. There is, however, concern in market as to the validity of PayID due to the potential for scams (particularly notable on Facebook Marketplace) leading many to believe that PayID is the scam, rather than a means for scammers to phish for additional personal information. FIs have been tackling this individually, however, more could be done at a scheme level to ensure consistent understanding and how to transact safely.
- ❑ The Consultation Paper lists alternative payment methods in Box 3 of page 17. Cuscal notes that Direct Debit and PayTo are also options for paying a bill, and that payments at auction/private sale can also be done using credit/debit card and RTGS. Similarly, in Box 4 of page 21, branch initiated



RTGS payments could also be an alternative payment method for large-value real-time payments.


- ❑ The Consultation Paper seeks opinions on whether the proposed solutions adequately support those without a bank account, providing Child support and Centerlink cheque payments as an example of a payment method that cannot be in some instances replaced by electronic payment. However, it is unclear from this example how these cheques can be deposited without access to a bank account. In Australia, bank accounts are currently required for personal/business cheques. Bank cheques can be purchased for cash, but AML/CTF checks would still be required by the bank to identify the purchaser. AusPost money orders would remain as a viable alternative to writing a cheque but deposits at Bank@Post can only be actioned via an account, same as for OTC deposits.
- ❑ The Consultation Paper notes there are certain state legislations that require winnings from gaming and gambling to be paid through cheques to deliberately introduce friction and delay the deposit of winnings so that they cannot be immediately used to make more risky bets. Similar delays can be achieved through electronic payments. Even an NPP payment (which is near instant) can be delayed by the operator. For example, such legislation could be amended to mandate NPP payments instead, which must then be delayed by a set period before they are processed for specified merchant codes.
- ❑ The Consultation Paper also highlights limitations in the Pay Doctor Via Claimant (PDVC) arrangements from the Department of Health and Aged Care. Cuscal notes that a simple solution would be for Services Australia to electronically credit the practitioner, which would increase the speed with which the practitioner is reimbursed and reduce the burden on patients of having to return the cheque to the practitioner.
- ❑ Building consumer trust around the alternate payment methods will be essential to a smooth transition. Education regarding online and digital payments will be particularly important, although many older Australians are already embracing digital options. In-branch assistance will also provide further education opportunities for those still struggling to adopt online options. Government support of NPP as the preferred payment method would also increase public trust.
- ❑ Dual authorisation for payments should also be enforced and be consistently available across all payment methods to build trust in alternative payment methods.

4. Fraud

- ❑ The consultation paper the prevalence of Cheque fraud. Cuscal notes that duplicate presentment is also an issue where digital presentment is used and the cheque is not surrendered to be processed. Duplicate presentments can happen either by accident (where digital presentment is followed by physical surrender to the same account) or with fraudulent intent (where multiple digital presentments are made to different accounts at different banks). Identification processes rely on the drawer's bank identifying duplications, not on the receiving bank. This can cause delays in the return of funds by the subsequent depositing bank, placing financial stress on the drawer.

5. Overview of the cheques system

- ❑ The consultation paper presents an end-to-end cheque processing, clearing, and settling diagram on page 10. Cuscal notes that while at a high level this makes sense, it is not quite accurate. We have provided a revised flow below which we hope will assist the Government on formulating its approach to the Wind Down.
 - i. Drawer writes a cheque and issues it to the payee.
 - ii. Payee deposits cheque at their financial institution.
 - iii. Payee's financial institution scans the cheque and transmits information to their processing centre.
 - iv. Payee's account is credited with the value of the cheque as uncleared funds.

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- v. Drawer's financial institution receives the captured data and cheque image from their processing centre.
 - vi. Settlements between financial institutions for APCS occurs on a net position daily.
 - vii. Drawer's account is debited with the value of the cheque.
 - viii. Cheque details and drawer's account balance verified.
 - ix. For dishonours, the drawer's financial institution will raise a reversal entry, crediting the drawer's account and sending a debit to the payee's financial institution to adjust the payee's account.
 - x. Value of the cheque is cleared by the payee's financial institution on day 3 to be accessed by the payee.

6. Market dynamics

- Tier 1 FIs have no obligation to continue to provide agency services to Tier 2s and aggregators. While the paper notes the risks associated with potential premature Tier 1 FI withdrawal, in practice this has already begun, with NAB issuing a termination to all their agency clients. While this was wound back, the lack of certainty led to some Tier 2s still proceeding with exiting chequing services. Recent decisions to remove these services have created uncertainty and concern amongst Tier 2s that they will not have adequate time to wind down operations, resulting in key Tier 2 players already exiting, either partially or through complete resignation, from the scheme. This is particularly applicable for aggregators such as Cuscal who have to co-ordinate with approximately 50 Tier 2 and sponsored clients under Cuscal BSBs. Similarly, Tier 1s who withdraw services leave Tier 2s with no option but to withdraw also - creating inequality between FIs still issuing and those without an acceptance option. This also creates uncertainty and confusion for users. Many consumers are to some extent 'locked in' with their banking provider as they are they are unable to open a chequing account elsewhere and this discourages them from considering other products with alternate providers.

7. Foreign cheques

- Cuscal's understanding is that foreign cheques are generally cleared on a "collection" basis, not through APCS. Accordingly, Cuscal recommends that the approach to foreign cheques can be considered as out of scope for the Wind Down.

In closing, we trust that our response will assist Treasury in formulating its approach to the Wind Down, and we look forward to further discussing our submission with you.

If we can be of any further assistance in the interim, please feel free to contact me at

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Yours sincerely,

[REDACTED]

Kieran McKenna
Chief Risk Officer

