

Reforms to the Payment Systems (Regulation) Act 1998

Submission to Senate Economics Legislation Committee

February 2024

Introduction

The Reserve Bank of Australia (the RBA) welcomes the modernisation of the regulatory architecture governing payments in Australia. The way Australians make payments has changed significantly since the existing regulatory frameworks were put in place, and it is important that regulation is able to adapt to new developments and risks as the payments system continues to evolve.

The RBA is the principal regulator of the Australian payments system, with the RBA's payments system policy determined by the Payments System Board (PSB). The payments system mandate, powers and responsibilities of the RBA and the PSB are mainly set out in the *Payment Systems (Regulation) Act 1998* (PSRA).¹

The PSB has a general duty to direct the RBA's payments system policy to the greatest advantage of the people of Australia. The PSB has a specific duty to ensure that the RBA exercises its powers under the PSRA in a way that best contributes to: controlling risk in the financial system; promoting the efficiency of the payments system; and promoting competition in the market for payment services, consistent with the overall stability of the financial system.

The following comments relate to the [Treasury Laws Amendment \(Better Targeted Superannuation Concessions and Other Measures\) Bill 2023](#) (the Bill).

The RBA supports the reforms to the PSRA

The RBA strongly supports reform of the PSRA as proposed in the Bill. In particular, the RBA supports:

1. the expansion of the regulatory perimeter of the PSRA, by updating existing definitions of a 'payment system' and 'participant', to ensure that all entities that play a role in facilitating or enabling payments, including new entrants, are within scope.
2. reforms to ensure the Government can intervene to address emerging payment issues of national significance that lie beyond the remit of independent regulators.
3. other changes to the PSRA to ensure the regulatory architecture is appropriate and effective, such as enabling the RBA to accept court-enforceable undertakings from payment system participants.

1 Other relevant pieces of legislation are the: *Reserve Bank Act 1959*; *Payment Systems and Netting Act 1998*; and Part 7.3 of the *Corporations Act 2001*.

The RBA raised in its [Submission](#) to the [Treasury Consultation on the Exposure Draft Legislation for the Bill](#), several issues regarding the proposed amendments to the PSRA.

Having reviewed the Bill introduced to the Parliament on 30 November 2023, the RBA considers that most of these issues have been largely addressed. In particular, the RBA is satisfied that:

- the definitions of ‘payment system’ and ‘participant’ are sufficiently broad to achieve the policy objective.
- the Ministerial designation power does not extend to enforcement and specific implementation mechanisms, consistent with the original policy proposal that Treasury consulted on.
- there is greater certainty with respect to the matters a nominated special regulator must consider when giving effect to a direction from a Minister.
- the effect of conflicts between a special access regime, standard or direction and the RBA’s ‘normal’ regulation has been clarified.
- the Bill includes appropriate protections from civil liability for relevant regulators (including the RBA) when acting in accordance with a Ministerial direction, and in the case of the RBA, those protections are sufficiently broad to cover conduct in good faith by the RBA and its staff and officials.

Reserve Bank of Australia

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