REVIEW OF RETAIL PAYMENTS REGULATION: ISSUES PAPER

TrueLayer response, January 2020

Dear Head of Payments Policy Department

Thank you for the opportunity to comment on the consultation on the Review of Retail Payments Regulation.

We understand the concerns and questions raised in the paper and agree with the Reserve Bank of Australia’s (“the Bank”) desire for the outcome of the consultation to be broad ranging and to consider whether there are any gaps in the payments system in Australia.

##### **About TrueLayer**

TrueLayer is a UK-headquartered FinTech firm, founded in 2016 and authorised by the UK’s Financial Conduct Authority (“FCA”). Truelayer takes advantage of the new right under PSD2 to access customer payment account data and initiate payments on behalf of the customer, with their consent.

The PSD2 legal framework creates an ‘overlay’ on top of traditional banking systems. Rather than plugging into the UK equivalent of the NPP, PSD2 enables TrueLayer and other third parties to ‘instruct’ banks. That means when a customer uses TrueLayer services to make a payment, TrueLayer is not touching funds, but rather submitting a payment order for one bank to execute a payment to another (via faster payments in the UK).

PSD2 allows companies to enter the market without the regulatory and capital overhead of players who would traditionally plug into the banking systems, to provide powerful payment tools that were traditionally the reserve of banks.

##### **Our plans for Australia**

We see Australia as a key growth market for our business, and the first key market outside of Europe. We are very optimistic about the potential brought about by the incoming CDR regime, and the NPP, and are encouraged by the clear and visible regulatory and government support for FinTech and Regtech. TrueLayer was also one of the inaugural participants in the UK-Australia FinTech Bridge in 2018/2019, and we have participated in a number of policy discussions since.

In 2020, we intend to bring our API-based Open Banking platform to Australia and help local and international companies to build better experiences for their customers. We also hope to help Australian FinTechs and scale-ups export their products globally with our platform. From our founding day, TrueLayer has been focused on growing the global Open Banking economy, and we want to continue this work in Australia, as we have done in Europe.

##### **Issues Paper**

Much of the Issues Paper relates to matters outside of TrueLayer’s currents interests in Australia, however we felt that we had useful insights into a number of fields of interest to the Bank, including:

* The role of emerging technologies and innovation in the payments industry; and
* The need for intermediaries such as TrueLayer to drive competition and development with the regulatory ability to do so.

We have responded below to the questions within the paper that we believe TrueLayer is able to provide insight on. The questions are numbered according to the Issues Paper.

**Question 1**

*What major recent or prospective developments in the broader payments industry are particularly relevant to this review? More specifically, are there any gaps in functionality available to end users or any shortcomings in industry governance or operating arrangements that require regulation or coordinated industry action?*

We believe that lessons can be learnt from the introduction of PSD2 in Europe, which has driven innovation in industry, especially for start-up FinTech firms. This has led to better outcomes for consumers, who increasingly want more control over their data and finances, and are moving away from interacting directly with traditional banking or payment systems, towards interacting via third party applications that provide a better all round experience than banks themselves. Implementing PSD2 required coordinated action by regulators, trade bodies, industry and innovators to establish OpenBanking across Europe (and it continues to do so). In doing so, control over payments is being driven away from banks and larger payment card issuers, which drives innovation and competition.

In particular, for the purposes of this Issues Paper, we would like to focus on the introduction of payment initiation services (“PIS”) - i.e. allowing intermediary firms such as TrueLayer to instruct payments on behalf of consumers.

We note that the NPP has released its roadmap stating that it is aiming to bring PIS to the platform. While we welcome this step, we do not consider this is enough to revolutionise payments in Australia. In particular, we note that:

* The NPP introducing PIS does not in itself create a regulated environment for PIS, or make it an acceptable activity across the wider payments spectrum (like PSD2 did in the EU). In limiting PIS to the NPP, we believe this disadvantages innovators, and intermediary firms such as TrueLayer, who cannot take advantage of accessing payments through platforms other than the NPP.
* The NPP entry requirements impose stringent regulatory obligations on entrants, which causes barriers to entry for startups - either financially, or technologically. For example, at present the NPP has requirements relating to anti-money laundering and transaction monitoring capabilities. In Europe, firms providing PIS do not conduct transaction monitoring at a granular level, because by the very nature of PIS, the firms do not have the customer identity and banking information that are needed for investigations. Without reconsidering the requirements imposed on entrants, it is therefore difficult, and burdensome, for smaller firms to enter the NPP. As a result, fewer products which will benefit consumers will be able to enter the market.
* There aren’t specific timetables for how long this product will take for the NPP, and what the requirements will be for firms who wish to avail of it. Without such information, innovative firms are unable to plan how and when they might test and launch a PIS product in Australia, which stifles and disrupts competition.

In Europe, PIS is a regulated activity, and firms such as TrueLayer can make the required connections with banks directly to enable PIS for their clients. We therefore consider that the lack of regulations around PIS in Australia is a gap the Bank should consider rectifying. We note that the Government has recently launched an inquiry to examine ways in which the Consumer Data Right can further support innovation and competition, which includes whether the CDR should also include ‘write access’, which would enable payment initiation services. We believe the Bank should work closely with the Government and the ACCC in this regard to close the regulatory gaps around payment initiation and drive innovation in Australia.

**Question 3**

*Are there barriers to innovation and/or competition that may affect the costs of or provision of electronic payments and should be addressed in this review?*

As noted above, we believe one of the barriers to innovation and competition around non-card payments is the regulatory gap around payment initiation. In addition to our points above, we note that utilising PIS provides cheaper access to electronic payments than traditional methods such as card payments for firms. This allows innovative startups to enter the market with reduced costs, and therefore drives competition.

In addition, we also note our earlier comments regarding the costs to firms to enter a platform such as the NPP. Small firms may wish to utilise the services of firms such as TrueLayer to avoid the financial and technological challenges access to the NPP may present. We believe that to enable this the Bank, in conjunction with the NPP, should assess how to make the platform more accessible to smaller firms if they want to promote innovation and competition - as well as how intermediary firms such as TrueLayer could assist in this process. For example, as the NPP is run by its members, it is dependent on firms joining the platform to drive changes to entrance requirements and costs. It should perhaps consider reaching out to FinTech firms to learn more on experiences globally with similar platforms, and what is preventing similar uptake in Australia.

Finally, the Bank may also wish to review its regulation of intermediary firms more generally, where those firms could act as ‘principals’ and take on the regulatory responsibility of smaller startup firms (acting as agents of the principal). In the UK, TrueLayer acts as a principal for a number of smaller FinTech startups, which has allowed those firms to bring their products to market quicker, and at a reduced cost. This in turn has driven innovation and competition. There may be an opportunity to introduce a similar agent/principal model in Australia in respect of payments/payment initiation.

**Question 9**

*What are the implications of the growing importance of mobile devices and digital platforms for the retail payments system in Australia? Are there issues that arise for the Bank’s regulatory regime for card payments or that are relevant to competition, efficiency and risk?*

One of the implications of the growing importance of mobile devices is the resulting decrease in investment and development in desktop services by banks, in particular in developing the customer journeys to allow innovative firms to access payments by desktop.

For example, in the UK, TrueLayer has a payment initiation services (“PIS”) client whose services are often accessed by desktop. However, in attempting to use our PIS product, customers were faced with cumbersome journeys for authentication with their banks. This resulted in a significant dropoff in conversion rates for our customer. To address this issue, TrueLayer developed an innovative QR code based solution that allows customers using desktops to authenticate their bank accounts via mobile phone.

We note that one way to address this issue would be to enforce the banks to ensure that their customer journeys do not hinder innovation and competition, no matter the channel. However, we feel a more beneficial approach to take is to reduce regulatory restrictions around third party firms such as TrueLayer from entering the market, and working with innovative firms to build a better consumer journey. One such way would be to introduce PIS sooner to the market (not just to the NPP), and to develop a regulatory framework for intermediary firms such as TrueLayer.

Once again, TrueLayer are grateful for this opportunity to share our views with the Bank, and look forward to contributing to Australia’s growing FinTech industry.

TRUELAYER LIMITED