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Secretariat
Payments System Review
The Treasury
Langton Crescent
PARKES ACT 2600

By email: PaymentsReview@treasury.gov.au

Dear Chair

Payments System Review – Issues Paper

PayPal welcomes the opportunity to provide this submission in response to the Payments System Review Issues Paper (***the Issues Paper***), acknowledging the Federal Government's commitment to evaluate the regulatory architecture underpinning the payments system.

PayPal recognises the complex regulatory environment in the Australian financial services sector and is pleased to provide specific comments in relation to the questions put forward in the Issues Paper.

About PayPal

PayPal has been operating in Australia since 2005 and has more than 8.5 million active customer accounts.

PayPal Australia enables transactions, online and offline, for Australian businesses, from sole proprietors to established large merchants, whilst protecting the personal financial information of its over 8.5 million active user accounts. PayPal is passionate about innovation in payments and is excited about the myriad of benefits that can be brought to the economy.

PayPal has remained at the forefront of the digital payment revolution for more than 20 years. By leveraging technology and strategic partnerships to make financial services and commerce more convenient, affordable, and secure, the PayPal platform is empowering more than 360 million consumers and merchants in more than 200 markets to join and thrive in the global economy.

The PayPal platform, including Braintree, Hyperwallet, PayPal Working Capital and PayPal Credit enables customers and merchants to receive money in more than 100 currencies, withdraw funds in 56 currencies and hold balances in their PayPal accounts in 25 currencies.

Responses to Issues Paper Questions

1. Does the regulatory architecture appropriately facilitate the development of an overall vision, strategy and principles for the Australian payments system?

The Australian payments landscape is evolving at an unprecedented pace. The number of participants in the payments system has grown exponentially since the foundations of Australia's regulatory architecture were laid. Moreover, the volumes flowing through the system have increased exponentially as well. While this has been the case for a number of years, we believe the global pandemic has resulted in a three- to five-year acceleration of the take-up of ecommerce and digital payments over a period of several months, especially by consumers and some parts of the small business community. We believe these trends will continue to accelerate across all sectors of the economy including consumers and business, particularly small business. For example, in Australia PayPal saw customer sign-ups almost tripled during initial pandemic-related restrictions in April 2020 compared to pre-pandemic levels. Amongst new users we saw a 65 percent year-on-year increase in Australians aged 50 years and over activating PayPal accounts.

In light of these structural shifts, it is timely for the Government to develop objectives, strategy and principles to guide the system over the coming years. Consideration should be given to developing a formal mechanism that enables ongoing collaboration between government and industry stakeholders to track progress against the strategy and vision while contributing to ongoing policy development and promotion of Australian success in payments innovation. In our view, this would help to ensure the regulatory architecture continues to deliver against its objectives, including global competitiveness, even as the industry evolves and technology advances.

2. How should our regulatory architecture be designed in order to balance the management of risk and efficiency in the payment system with the need for effectiveness for end-users?

As a priority, policymakers should seek to ensure an understanding of the developments driving payments technology, including cyber security technology, both in Australia and globally, and embrace the digital revolution to support their goals of serving, protecting, and empowering citizens through a competitive payments sector. We believe regulators should adopt a balanced approach of promoting policies that foster an ecosystem for digital payments to thrive, while mitigating risks. Technological innovation and business partnerships will continue to evolve and create new and better solutions for customers. However, without the appropriate enabling environment in place, some of the most innovative payments solutions could be stifled.

Recent innovation in payment system architecture has been focused on enhancing trust and security while driving greater customer utility and functionality. The rise of the smart phone as a pivotal payment device is likely to continue, driven by consumer demand. Australia's regulatory architecture, as in most other nations, needs to keep pace with the new innovations occurring in mobile payments.

A fit-for-purpose regulatory architecture should be able to balance facilitation of the high value customer utility and security of mobile payments technology with potential future competitive impacts on payment system efficiency and cost. This is particularly important as we believe smartphones will continue to be important for both online and in-store payments.

We also note the Council of Financial Regulators report outlining its conclusions following a review of the regulation of stored-value facilities in Australia that was released in November 2020. While the Issues Paper confirms these recommendations are outside the scope of this Review, we welcome the progress toward reforming the existing Purchased Payment Facility framework and look forward to the opportunity to participate in consultation on the Council's recommendations.

3. What is the appropriate balance between self-regulation, formal regulation and government policy to ensure the payment system continues to work in the best interests of end-users?

Payments innovation has brought about greater simplicity and transparency for end-users across the ecosystem.

PayPal believes that government policy and formal regulation are essential in setting the overarching principles and guardrails that promote confidence in the system. PayPal is committed to full compliance with all its regulatory obligations in Australia and all the markets it operates in around the world.

We also believe the nature of a fast-paced, technology-driven payments system means that industry self-regulation should continue to play an important role in the overall regulatory architecture given the flexibility it provides to respond to rapidly changing market dynamics without impeding innovation that benefits end-users in addition to providing even greater confidence for end-users. Moreover, the importance of government policy statements should not be overlooked. It is valuable to have the perspective, analysis, and insight of government on a particular issue without necessarily issuing concrete regulations. For example, we note the significance of the Government's creation of a ministry for the Digital Economy and policies aimed at supporting a digitally enabled business community, especially small businesses.

When regulation is necessary it should account for the differences and similarities between traditional and newer service offerings. Regulation

should be risk-based, equitable in terms of application to equivalent activities regardless of business model and focused on the efficiency of each point in the system. To achieve these objectives, policymakers should ensure a key principle of any future regulatory change should be holistic consultation on both overall objectives and implementation detail with industry stakeholders and end-users.

4. Are there gaps (or duplication) in the current architecture that need addressing to ensure the system continues to work in the best interests of end-users?

The lack of a secure, reliable, digital identity framework poses a significant barrier to more efficient online interactions and economic participation by citizens least able to overcome those barriers. Creating a secure government-issued digital identity framework linked to an electronic know your customer (e-KYC) could greatly improve the ecosystem for onboarding, authentication, and verification for electronic payments.

The Digital Transformation Agency's (DTA) efforts in this space are a welcome development. PayPal is encouraged by the DTA's progress to date and would welcome the opportunity to engage with the agency as the rollout of the Digital Transformation Strategy 2018-2025 continues. Streamlining digital identification processes is vital to the long-term health and efficiency of the payments ecosystem.

5. How should the regulatory architecture be designed to best facilitate the coordination of participants and regulators to meet the requirements of end-users?

The regulatory architecture and regulations underpinning it, must be created in a technology-neutral fashion. Moreover, the goals of customer protection, security and safety should guide regulatory requirements rather than classical data elements that may no longer actually relate to those goals. This approach will future-proof the relevance and applicability of regulations as technological innovations continue to emerge from industry. We believe regulators have an opportunity to approach risks in a new manner that is more flexible and able to account for new technological developments, risks, and data points.

Current financial services regulation utilises rigid design standards that impose specific business methods on innovative businesses and a methodology that does not iterate with rapid developments in industry. There is uniform agreement that the pace of the current model for regulation cannot keep pace with the rapid changes in industry. There have been two responses to these limitations in regulatory development – 'RegTech' and Sandboxes.

Both responses are important developments that will help the digital economy continue to grow, however, we consider they could go further. For example, 'RegTech' does not solve the problem of static regulatory models, instead just easing the burden on regulated entities and making it easy for them to file documents that may or may not be particularly useful for achieving a regulatory goal.

While sandboxes provide flexibility in early stages, it is not entirely clear what an entity born in a sandbox is to do once it graduates from the sandbox. If the traditional regulations continue to apply, then the sandboxes do not provide a scalable solution. We believe consideration should be given to expanding the FinTech Sandbox framework at a product level to established licensees to test and refine solutions which ultimately, delivered at scale have the potential to grow the entire payments system for the benefit of end-users and the economy more broadly.

We also note that PayPal is an active participant within the Australian payments ecosystem, and we engage in partnerships to jointly enhance capabilities, improve efficiency and create a more streamlined user experience for our consumer and merchant users when operating within the PayPal environment. It is important that the regulatory architecture continues to facilitate these partnership models, with acknowledgement of the important roles various organisations play within these partnership structures, including in relation to risk management and consumer outcomes.

- 6. What are the required features of a future regulatory architecture to ensure it is well-placed to meet the needs of end-users in relation to emerging innovations in the payments system such as those discussed above? Are changes needed to existing structures, roles and mandates involved in the governance of the system?**
- 7. What regulatory architecture is needed to provide support and clarity for businesses – particularly new entrants – to invest and innovate in our payments system?**

Answer to Q6 & Q7:

In light of the structural shifts in the payments landscape noted earlier, in PayPal's view the regulatory architecture should:

- Be fit-for-purpose;
- encourage growth, competition and innovation;
- create a level playing field that accommodates different business models, and is activity and risk-based;
- have a dedicated payments system regulator or, where oversight remains split across multiple regulators, the roles and responsibilities of each regulator should be clearly defined, with a formal mechanism for coordination across regulators;
- clearly differentiate between appropriate protections and their application to the various end-users whether they be individual

- consumers, businesses (small, medium, and large) or government;
- have flexibility to adapt to changing dynamics in the market, including new and emerging technology; and,
- attempt to achieve interoperability with international regulatory architectures.

8. How can the regulatory architecture enable participants in the payments system to make better use of data to improve cross-border payments and other payments that benefit end-users?

PayPal's view is that data and innovation are key to a truly global cross-border payments system. Cross border payments are a major growth area in Australia, especially as digital commerce in goods and services enables Australian businesses to find new and different customers around the world. The free flow of data is important not just for the development of innovative payments, but also as a tool for payment service providers to use for risk management and customer protection. While appropriately robust data protection rules are necessary, PayPal has opposed attempts to impose data localisation on service providers in some other jurisdictions. We certainly hope that Australia will avoid such policy choices, in favour of data protection and ongoing discussions between the private sector and relevant authorities about how best data can be used to ensure the protection of users and integrity of the payments and financial systems.

9. Given rapid changes to the system, what need is there for education for end-users (including consumers and businesses) about payments and who should provide that education?

At the heart of PayPal's mission is a core belief that now is the time to reimagine money, to democratise financial services, because we believe that managing and moving money is a right for all citizens, not just the affluent. We believe that full participation in the global economy is a right, not a privilege. As a leading participant in the global payments systems, we have an obligation to empower people to exercise this right and improve financial health. As a leader in financial technology, we believe in providing simple, affordable, secure and reliable financial services and digital payments that enable millions of people around the world to participate in the economy. One of the ways in which PayPal supports the education of end-users is through our consumer-centred innovations such as buyer and seller protection, which offer PayPal customers a higher degree of service beyond the facilitation of payments, all of which contribute to greater consumer confidence and trust in the system overall.

PayPal believes there is also a role for government in educating its citizens about the digital payments system, ensuring confidence in participating in it. PayPal applauds the work of the eSafety Commissioner during 2020 to educate and inform older Australians and culturally and linguistically diverse

(CALD) individuals who may previously have avoided the digital economy about how to engage safely and securely with the digital payments system, including PayPal Australia.

10. How does Australia’s regulatory architecture compare with that of other jurisdictions, particularly as it relates to the encouragement of innovation and competition?

PayPal welcomes the commencement of Australia’s Open Banking regime. Singapore, the European Union (EU), Australia, and Brazil have all included language in their payments legislation on the concept of open access.

Perhaps the most noteworthy of these regimes is the EU Payment Services Directive 2 (PSD2). PSD2 prescribes a broad open access regime, enabling the regulatory authority to impose on all banks an access regime that must be objective, non-discriminatory, and proportionate while maintaining their ability to safeguard against risks. Open application programming interfaces (APIs) are the main conduit to implement the PSD2 regime and enable payment system providers to easily pull user information in a standard format. PSD2 has thereby continued to facilitate market access for non-traditional, non-bank providers; particularly through the creation of the Payment Initiation Services (PIS) and Account Information Services (AIS) categories in the licensing regime.

The Brazilian regime limits its access regime to “infrastructures and services required for the functioning of the payment scheme.” This limitation is problematic as technology is enabling a host of new service providers that may not be at the infrastructure layer of payment, but which would benefit tremendously from access to data from others in the ecosystem.

Regulators should continue to work with the private sector to develop clear standards for open access to data. It is important for regulators to work with the private sector on interoperability to ensure that entities throughout the entire ecosystem are participating so that technologies are created that help consumers and do not limit their options or reduce competition.

PayPal Australia is generally supportive of an approach to Open Banking which provides customers with choice, convenience, and confidence. The framework represents a considered and reasonable approach to how Open Banking should be implemented and establishes a sound regulatory approach on which to base the broader Consumer Data Right (CDR).

We believe one of the biggest opportunities around Open Banking is related to identity verification. PayPal strongly supports the principle that banks, as data holders, be required to share the outcome of identity verification assessments performed on a customer upon a customer’s request. We also welcome recent amendments to anti-money laundering laws, which enable reporting entities who may also be data recipients under the CDR regime, to

share customer identification information with another reporting entity subject to an eligible written agreement or arrangement for the purpose of relying on that information for their applicable customer identification procedures. PayPal believes the sharing of data to confirm identity for the purposes of regulatory obligations should be permitted to be securely and confidentially shared between institutions. This will limit customer inconvenience and improve efficiency of identification procedures for all financial service providers.

Faster access to payments is one of the largest demands we hear from our merchants and consumers and as such, we believe consideration of access for non-banks to participate directly in the New Payments Platform as it continues to develop is worthwhile. India, for example, is currently considering allowing non-banks to access its core payments architecture. Innovative Financial Technology could potentially leverage such access to provision new services.

Financial Technology is a global phenomenon and requires collaboration between regulators across borders if it is to truly transform and democratise financial services. Australia's 'FinTech bridge' with the UK is an excellent first step and can be built upon. We also note the recent Singapore-Australia Digital Economy Agreement as another example of collaboration that is welcomed by PayPal.

Creating interoperability through passporting regimes is the ideal method for enabling Financial Technology to develop. An example of a successful model comes from European Union where an entity regulated in a single market in the EU can passport their regulatory status into other countries that are part of the Union. This model would enable far more rapid scaling of innovative and beneficial financial services solutions.

11. Are there lessons from international experiences that can improve Australia's regulatory architecture to ensure it responds effectively to new developments in the future for the benefit of end-users?

While the Financial Technology landscape is continuously evolving, we believe there are some considerations for policymakers when establishing legislative and regulatory frameworks:

- i. With the rise of mobile devices, customers now expect context-driven experiences over intent-based experiences. With smaller screened-devices, and as commerce moves into new contexts like artificial and virtual realities or virtual voice assistants, where customers no longer have good input devices, they expect their mobile devices and apps to know enough about them to eliminate the need for data entry.
- ii. Open platforms are best positioned to effectively partner across the ecosystem and create the best customer experiences. The customer must be met wherever they are, and financial services

is becoming an increasingly fragmented industry, it is no longer realistic to try to confine customers to one platform.

- iii. Partnership between banks and digital and mobile-first Financial Technology companies can help companies with traditional financial offerings develop new models to create and deliver digital experiences that better engage and retain their customer base. Regulators should encourage partnership between banks and non-bank entities.

Harmonisation and interoperability

In order to develop a truly global payments system, regulators and policymakers should think beyond their individual agency remit and national borders. Creating interoperability through passporting regimes is the ideal method for enabling Financial Technology to develop. Regulators in those markets where the Financial Technology sector has a significant physical presence should have jurisdiction and supervisory authority. Another example of a successful model comes from Singapore, where the Monetary Authority of Singapore has established a Financial Technology office designed to foster partnership among a variety of government agencies that might impact Financial Technology.

Financial Technology innovation will continue regardless of what policymakers and regulators do. If customers demand it, technology will evolve, and businesses will offer new solutions. The key for regulators and policymakers in this area of rapid innovation is not more or less regulation, but rather smarter regulation. Policies that facilitate the rise of socio-economically beneficial Financial Technology innovations should be embraced, albeit without picking winner or loser technologies. In cases where Financial Technology innovations are offered without transparency, where they fail to respect the security or privacy of the user, or where they result in user harm then clear supervisory mechanisms should be utilised.

Thank you again for the opportunity to make this submission. Please do not hesitate to contact Holly Dorber, Head of Government Relations for Australia [REDACTED] if you have any questions, feedback or would like to discuss.

Sincerely



Paul Ryan
Chief Executive Officer
PayPal Australia