

Application by Industry Committee,  
on behalf of its members who are  
shareholders and/or members of  
BPAY, eftpos and/or NPPA, to  
amalgamate under NewCo

Dated 18 March 2021

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**[Confidential to NPPA]** NPPA Confidential Information not to be shared with BPAY, eftpos or other third parties

**[Confidential to the Parties]** Confidential Information not to be shared with persons who are not Applicants

## Annexures

Non-Confidential Annexures		
Annexure No.	Description	Restriction of Publication Claimed
1	Reserve Bank of Australia, Strategic Review of Innovation in the Payments System: Issues for Consultation, June 2011	No
2	Reserve Bank of Australia, Review of Retail Payments Regulation: Issues Paper, November 2019	No
3	Philip Lowe, Reserve Bank of Australia Speech – ‘A Payments System for the Digital Economy’, 10 December 2019	No
4	Australian Federal Treasury, Review of the Australian Payments System Issues Paper, 20 November 2020	No
5	Philip Lowe, Reserve Bank of Australia Speech – ‘Innovation and Regulation in the Australian Payments System’, 7 December 2020	No
6	eftpos 2020 Annual Report	No
7	eftpos 2019 Annual Report	No
8	eftpos 2018 Annual Report	No
9	Reserve Bank of Australia, ‘The Regulatory Framework for the eftpos System: Final Reforms and Regulation Impact Statement’, November 2012	No
10	Reserve Bank of Australia, Designation No. 1 of 2012 under the Payment Systems (Regulation) Act 1998, 12 June 2012	No
11	Reserve Bank of Australia, Designation No. 3 of 2015 under the Payment Systems (Regulation) Act 1998, 15 October 2015	No
12	Reserve Bank of Australia, Standard No. 2 of 2016, the setting of interchange fees in the designated debit and prepaid card schemes and net payments to issuers as varied from 1 July 2019	No
13	Reserve Bank of Australia, Designation No. 3 of 2016 under the Payment Systems (Regulation) Act 1998, scheme rules relating to merchant pricing for credit, debt and prepaid card transactions, 26 May 2016	No
14	NPPA 2020 Annual Report	No
15	NPPA 2019 Annual Report	No
16	NPPA 2018 Annual Report	No

Non-Confidential Annexures		
17	Regulations for NPP Version 7.0, 20 May 2020	No
18	Reserve Bank of Australia, 'The New Payments Platform and Fast Settlement Service', 20 September 2018	No
19	RBA, 'NPP Functionality and Access Consultation: Conclusions Paper', June 2019	No
20	RBA, Strategic Review of Innovation in the Payments System: Conclusions, 2012	No
21	Michele Bullock, Reserve Bank of Australia Speech – 'Fast Payments in Australia', 13 March 2018	No
22	NPP, 'Update on the New Payments Platform Roadmap', 30 April 2020	No
23	NPP, 'New Payments Platform Roadmap 2019', 28 October 2019	No
24	RBA, 'Dual-Network Cards and Mobile Wallet Technology – consultation paper', December 2016	No
25	RBA, 'Consumer Payments Behaviour in Australia', March 2020	No
26	RBA Payments System Board, 2020 Annual Report	No
27	Australian Payments Network (2020), 'Australian Payment Fraud 2020', Final Report, August 2020	No
28	Max Mason and James Evers, The Australian Financial Review 'Facebook wins Australian patent for Messenger payments', 2 July 2017	No
29	ACCC, 'Determination: Applications for authorisation lodged by NPP Australia Limited in respect of certain provisions of the New Payments Platform Regulations – Authorisation number: A91560 – A91562', 5 April 2017	No
30	Australian Payments Network, 'Select Committee on Financial Technology and Regulatory Technology – Submission 99 to The Productivity Commission Inquiry, Competition in the Australian Financial System', December 2019	No
31	ANZ 2020 Annual Report	No
32	Commonwealth Bank of Australia 2020 Annual Report	No
33	NAB 2020 Annual Report	No
34	WBC 2020 Annual Report	No
35	Bendigo and Adelaide Bank 2020 Annual Report	No
36	ASL 2020 Annual Report	No

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37	ING Bank (Australia) Limited 2019 Annual Report	No
38	Woolworths 2020 Annual Report	No
39	Coles 2020 Annual Report	No
40	Bank of Queensland 2020 Annual Report	No
41	Fiserv 2019 Annual Report	No
42	Suncorp Group 2020 Annual Report	No
43	Tyro 2020 Annual Report	No
44	Ayden 2019 Annual Report	No
45	Reserve Bank of Australia 2020 Annual Report	No
46	Macquarie Bank Limited 2020 Annual Report	No
47	Payments Strategy Forum, 'A Payments Strategy for the 21st Century: Putting the needs of users first', November 2016	No
48	Pay.UK 2019 Annual Report	No
49	Visa 2019 Annual Report	No
50	Mastercard 2019 Annual Report	No
51	American Express 2019 Annual Report	No
52	PayPal 2019 Annual Report	No
53	Facebook 2019 Annual Report	No
54	Libra Whitepaper v2.0, April 2020	No
55	Finextra, 'ECB warns the future of money is at stake as Facebook preps January crypto launch', 27 November 2020	No
56	Alibaba Group 2020 Annual Report	No
57	Australian Securities and Investments Commission, Report 600 'Review of buy now pay later arrangements', November 2018	No
58	James Eyers and Anthony Macdonald, The Australian Financial Review 'Chinese giant Tencent takes \$300m stake in Afterpay', 1 May 2020	No

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59	James Eyers, The Australian Financial Review 'Zip shares surge on QuadPay deal to chase Afterpay into the US', 2 June 2020	No
60	Australian Securities and Investments Commission, Report 672 'Buy now pay later: an industry update', November 2020	No
61	Deloitte, Payments Trends 2020 – InFocus: Strategies to prepare for the future of payments, 2019	No
62	PWC, Emerging Markets - Driving the Payments Transformation, 2016	No
63	PWC, Future of payments in Australia - The future of transaction banking and payments in 2020	No
64	McKinsey and Company, The 2020 McKinsey Global Payments Report, October 2020	No
65	Worldpay from FIS, The Global Payments Report 2021 - Rebuilding Payments For A Smarter World	No
66	Infosys, Global Trends In The Cards And Payments Industry 2020	No
67	ANZ signed undertaking, 17 March 2021	No
68	ANZ signed declaration, 17 March 2021	No
69	ASL signed declaration, 17 March 2021	No
70	Bendigo and Adelaide Bank Limited signed declaration, 16 March 2021	No
71	CBA signed undertaking, 17 March 2021	No
72	CBA signed declaration, 17 March 2021	No
73	Coles Group Limited signed declaration, 17 March 2021	No
74	Cuscal Limited signed declaration, 16 March 2021	No
75	First Data Network Australia Limited trading as Fiserv signed declaration, 17 March 2021	No
76	HSBC Bank Australia Limited signed declaration, 9 March 2021	No
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80	Tyro Payments Limited signed declaration, 17 March 2021	No
81	WBC signed undertaking, 16 March 2021	No
82	WBC signed declaration, 16 March 2021	No
83	Woolworths Group Limited signed declaration, 15 March 2021	No
84	Industry Committee Resolution, 16 October 2020	No
85	Media Release - eftpos, BPAY Group and NPPA propose to amalgamate for the benefit of Australian consumers and businesses, 15 December 2020, including: <ul style="list-style-type: none"> <li>a) Small Business and Merchant pack - Proposed Consolidation of Australian Domestic Payment Companies, 12 February 2021;</li> <li>b) Fintech Australia Webinar - Proposed Consolidation of Australian Domestic Payment Companies, 17 February 2021; and</li> <li>c) Letter from Mr R Milliner to Ms K Carnell Small Business and Family Enterprise Ombudsman, 8 March 2021</li> </ul>	No
86	Non-confidential version of Dr Geoff Edwards, Charles River Associates, Proposed Amalgamation of BPAY, eftpos and NPPA, Summary Economic Assessment of Likely Effects on Competition and Public Benefits and Detriments, dated 18 March 2021	No
87	Non-confidential version of Mr Lance Sinclair Blockley, Expert Industry Opinion in relation to Application to the Australian Competition and Consumer Commission for Authorisation of the amalgamation of BPAY, eftpos and NPPA, dated 18 March 2021	No
88	Non-confidential statement by Australia and New Zealand Group Limited in support of application for authorisation (with non-confidential ND-2, including Tab 1)	No
89	Non-confidential statement of BPAY Group Pty Ltd and BPAY Ltd in connection with application for authorisation	No
90	Non-confidential statement by Commonwealth Bank of Australia in support of application for authorisation (with non-confidential Exhibit CBA-1, including Tabs 1 to 17)	No
91	Non-confidential statement by Coles Group Limited in support of application for authorisation	No
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94	Non-confidential statement by National Australia Bank Limited in support of application for authorisation (with non-confidential Exhibit SC-2, including Tabs 1 to 2)	No
95	Non-confidential statement by NPP Australia Limited in support of application for authorisation (with non-confidential Exhibit AL-2, including Tabs 1 to 6)	No
96	Non-confidential statement by Westpac Banking Corporation in support of application for authorisation	No
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## 1 Glossary

Unless the contrary intention appears, these meanings apply:

**A2A** means Account-to-Account.

**ACH** means Account Clearing House.

**Act** means *Competition and Consumer Act 2010* (Cth).

**ADI** means Authorised Deposit-Taking Institutions.

**Adoption Costs** means the costs incurred by a Scheme Member in adopting a payment capability offered by eftpos, BPAY or NPPA, including technical integration costs, and costs incurred in explaining, marketing, and encouraging adoption of those capabilities by End Users. These costs are distinct from any capital investment the Scheme Member might contribute to BPAY Holdco, eftpos and NPPA eg, for the development of common infrastructure.

**American Express** means American Express Australia Limited (ABN 92 108 952 085), a subsidiary of American Express Company.

**ANZ** means Australia and New Zealand Banking Group Limited (ACN 005 357 522).

**APCA** means Australian Payments Clearing Association.

**API** means Application Programming Interface.

**Apple** means Apple Inc.

**Applicants** means Industry Committee on behalf of its members, being the following shareholders and members, as the case may be, of BPAY Holdco, eftpos and NPPA: ANZ, ASL, Bendigo and Adelaide Bank Limited, CBA, Coles Group Limited, Cuscal Limited, First Data Network Australia Limited trading as Fiserv, HSBC Bank Australia Limited, Macquarie Bank Limited, NAB, Tyro Payments Limited, WBC and Woolworths Group Limited.

**Application** means this application for authorisation.

**APRA** means the Australian Prudential Regulation Authority.

**ASL** means Australian Settlements Limited (ACN 087 822 491).

**AusPayNet** means Australian Payments Network.

**B2B** means business-to-business.

**B2P** means business-to-person.

**Bacs** means the Bacs Payment Schemes Limited, responsible for the UK's DE debit and credit payment schemes, as well as other services.

**BCS** means Banking Computer Services Private Limited.

**BCSIS** means BCS Information Systems Pte Ltd.

**BECS** means Bulk Electronic Clearing System.

**Beem It** means Digital Wallet Pty Ltd trading as Beem It.

**BFS** means Banking and Financial Services.

**Big Tech** means the American and Chinese technology giants like Google, Apple, Facebook, Ant Group and Tencent.

**BNPL** means buy now pay later services.

**Board** means NewCo board.

**BPAY** means BPAY Holdco and BPAY Opco.

**BPAY Group** means BPAY Group Pty Ltd (ACN 003 311 644).

**BPAY Holdco** means BPAY Group Holding Pty Ltd (ACN 626 481 525).

**BPAY Newco** means the Newco entity owned 100% by BPAY Holdco (as depicted in the BPAY Holdco company structure in **Exhibit 6A** in section 11.3) and will not form a part of the Conduct.

**BPAY Opco** means BPAY Group Pty Ltd and BPAY Pty Ltd.

**BPAY Pty Ltd** means BPAY Pty Ltd (ACN 079 137 518).

**BPAY Scheme** means the Payment Service operated by BPAY Pty Ltd.

**BSB** means Bank State Branch.

**C2B** means consumer to business payments.

**CBA** means Commonwealth Bank of Australia (ACN 123 123 124).

**CDR** means Consumer Data Right.

**CECS** means Consumer Electronic Clearing System rules formerly administered by AusPayNet.

**CGM** means Commodities and Global Markets.

**CGU** means Cash Generating Units.

**Citigroup** means Citigroup Pty Limited (ACN 004 325 080).

**Commission** means the Australian Competition and Consumer Commission.

**Conduct** means the conduct for which authorisation is sought as referenced in section 5.3.

**CRN** means Customer Reference Number.

**DE** means direct entry payments.

**DNDC** means dual-network debit card.

**eftpos** means eftpos Payments Australia Limited (ABN 37 136 180 366).

**EFTPOS** means the electronic funds transfer at POS.

**End Users** means payers and payees using the payment systems, eg consumers, merchants and billers.

**ESA** means Exchange Settlement Account and are the means by which providers of payments services settle obligations that have accrued in the clearing process.

**Facebook** means Facebook, Inc.

**FinTech** means financial technology.

**FSS** means Fast Settlement Service.

**G2P** means the Government to Person sector.

**Google** means Google LLC.

**Hypothesis** means the Industry Committee considering and making non-binding recommendations to whether and how best the objects of each of BPAY Opco, eftpos and NPPA might be served by amalgamating them.

**ICA** means the Industry Committee Administration Pty Ltd.

**ICS** means the international card schemes.

**Implementation Agreement** means the confidential agreement entered into between BPAY Holdco, eftpos and NPPA on 10 December 2020.

**Industry Committee** means the governance framework created by the ICA established under the Confidential Industry Committee Participation Agreement.

**Industry Committee Participation Agreement** means the Confidential Participation Agreement dated 24 July 2020.

**KYP** means know your payee.

**LCR** means least-cost routing.

**Major Australian Banks** means ANZ, CBA, NAB and WBC.

**MAS** means the Monetary Authority of Singapore.

**Mastercard** means Mastercard Incorporated.

**MPS** means Mandated Payments Service.

**NAB** means National Australia Bank Limited (ACN 004 044 937).

**NewCo** means the entity that will, post-amalgamation, own BPAY Opco, eftpos and NPPA.

**NFC** means near field communication technology.

**NPA** means the New Payments Architecture.

**NPP** means the New Payments Platform.

**NPP Procedures** means that procedures for NPP.

**NPP Regulations** means the regulations for NPP.

**NPPA** means NPP Australia Limited (ABN 68 601 428 737).

**NPPA Transfer Agreement** means the Transfer Agreement that each of NPPA, each shareholder in NPPA and NewCo will enter into.

**OCBC Bank** means Oversea-Chinese Banking Corporation Limited.

**OpCo** means operating company.

**Osko** means Osko by BPAY.

**P2B** means person-to-business payments.

**P2P** means peer-to-peer / person-to-person funds transfers.

**PayIDs** means a unique identifier such as a mobile number or email address, which is linked to a bank account. It is designed to enable the transfer of money without having to reference BSBs and bank account numbers.

**Payment Services** means the payment services facilitated by each of eftpos, BPAY Group and the NPP.

**PayPal** means PayPal Australia Pty Limited (ABN 93 111 195 389), a company offering payments services in Australia on behalf of its parent, PayPal Holdings, Inc.

**POS** means point of sale.

**Prescribed Services** means a minimum set of services that the OpCos must provide on day 1 and develop in the near term and are included in the roadmap for NewCo according to NewCo's proposed Constitution.

**PSB** means the Payments System Board.

**PSF** means the Payments Strategy Forum, a working group created by the United Kingdom's Payments System Regulator.

**PSP** means a payments service provider.

**QR Code** means quick response code.

**RBA** means the Reserve Bank of Australia.

**Resolution** means the Industry Committee's Resolution, dated 16 October 2020 annexed as **Confidential Annexure 1**.

**RITS** means Reserve Bank Information and Transfer System.

**RTGS** means Australia's real-time gross settlement system.

**RTPC** means the Real-Time Payments Committee.

**SaaS** means software as a service.

**Scheme Members** means direct participants in the eftpos, NPP and BPAY payment systems, for example, issuers and acquirers.

**SCT** means Single Credit Transfer.

**SMEs** means small and medium enterprises.



**Special Majority Band Resolution** means, in respect of a Payment Service, a resolution of the members that hold classes of preference shares in the band for that Payment Service present and voting (who are not disqualified from voting on that resolution) who between them hold 75% or more of the total number of shares in the classes of shares in that band.

**Sypht** means Sypht Pty Ltd (ACN 627 246 039).

**Technical, Operational and Security Rules** or **TOSR** means the eftpos Technical, Operational and Security Rules.

**Transaction Advisory Committee** means following the signing of the Implementation Agreement, the Industry Committee that will continue in existence under its current structure and form but will become known as the Transaction Advisory Committee.

**Transition Plan** means Schedule 3 of the Confidential Implementation Agreement, dated 10 December 2020 annexed as **Confidential Annexure 2**.

**Visa** means Visa Inc.

**WBC** means Westpac Banking Corporation (ACN 007 457 141).

## 2 Executive Summary

### 2.1 Application for authorisation to acquire shares to amalgamate Australia's three payment schemes

Pursuant to s 88(1) of the Act, this is an application by ICA for authorisation on behalf of members of the Industry Committee, administered by ICA who are shareholders of BPAY Holdco, members of eftpos and/or shareholders of NPPA, and NewCo once it is incorporated, for:

- (a) the existing shareholders and members of BPAY Holdco, eftpos and NPPA, as the case may be, to acquire shares in NewCo; and
- (b) NewCo to acquire shares in each of BPAY Group and BPAY Pty Ltd (together BPAY Opco), eftpos and NPPA (the acquisitions of shares being the Conduct).

The Conduct will result in NewCo owning BPAY Opco, eftpos and NPPA.

It will re-organise the current owners' interests in BPAY Opco, eftpos and NPPA.

BPAY Holdco, eftpos and NPPA own and operate different and largely complementary payment schemes in Australia, in competition with the ICS (Visa and Mastercard) and other global companies, including Big Tech and FinTech companies.

### 2.2 NewCo

NewCo will be owned by the current shareholders and members of BPAY Holdco, eftpos and NPPA. The RBA is currently a shareholder of NPPA. However, the RBA will not become a shareholder of NewCo and is not, therefore, an Applicant.

NewCo will be economically self-sustaining, will not be profit maximising<sup>1</sup> and will be able to find the most efficient and least cost way of innovating across the three payment schemes.

### 2.3 Admitting new shareholders to NewCo

The Applicants have formulated a set of principles for NewCo's board of Directors to consider when admitting new shareholders to NewCo. The overarching guiding principle is that any expansion to NewCo's shareholder base adequately represents the community of stakeholders.

When doing so, it is envisaged that Directors will have regard to the *Foreign Acquisitions and Takeovers Act 1974* (Cth), the *Critical Infrastructure Act 2018* (Cth) and the takeovers provisions in the *Corporations Act 2001* (Cth), as well as to whether the potential new shareholder will be actively involved in the governance of NewCo, including with the roadmap and future direction for the development of payments services, promoting innovation in payments and enhancing the connectivity of BPAY, eftpos and NPPA.

New shareholders will need to be a user of the payment services of BPAY, eftpos or NPPA and will need to make a capital contribution which is not expected to be significant.

<sup>1</sup> Confidential Implementation Agreement, 10 December 2020, Schedule 3 – Transition Plan, clause 2.3 – annexed as **Confidential Annexure 2**.

## 2.4 Rationale

The shareholders and members of BPAY HoldCo, eftpos and NPPA, who are represented on the Industry Committee, determined that the Conduct will allow the three payment schemes to:

- (a) co-ordinate their innovations, creating efficiencies for their customers (including by reducing transaction costs), businesses and consumers and reducing the risk of stranded assets from innovations that are not able to succeed due to their inability to achieve network effects in a timely manner; and
- (b) better compete against existing and future global payment companies, enhancing competition in domestic payments markets.

The Applicants believe the Conduct will overcome the network externalities and market failures that currently exist in the Australian payments industry where the significant challenges to co-ordinating investments in new payments services across Australia's banks and other financial services institutions has prevented new payment services from achieving network effects in a timely fashion.

The "splintering", confusion and "wait and see" approach that characterises investment decisions has meant new Australian payments services have not achieved high adoption rates, have been inefficiently delayed or abandoned (resulting in asset write downs).

The Conduct will provide the necessary leadership to allow participants in Australia's payments industry to co-ordinate their focus on an agreed roadmap of innovations.

## 2.5 Ancillary conduct

The Conduct will not result in any material change to NPPA's scheme rules, which are authorised by the Commission.<sup>2</sup> NPPA is satisfied that the immaterial changes will be covered by the existing authorisation.

eftpos' scheme rules are not authorised by the Commission. eftpos is considering whether the Conduct will result in any material change to its scheme rules and, if so, whether that would require an authorisation from the Commission.

Should the Conduct result in a need for eftpos to apply to the Commission for an authorisation of its scheme rules, the Applicants envisage that eftpos would apply for urgent interim authorisation and authorisation to avoid any delays in the Commission's assessment of this Application.

The Conduct will not involve any ancillary conduct by BPAY.

## 2.6 Counterfactual scenario

The Applicants' assessment of the likely counterfactual scenario, the Conduct's likely effects on competition and likely public benefits and detriments is supported by a report prepared by an expert economist, Dr Geoff Edwards of Charles River Associates. Dr Edwards' report is annexed to this Application.

Based on the content of the confidential statements annexed to this Application, the counterfactual scenario is likely to involve a lesser form of amalgamation than the Conduct. That might comprise a combination of two of Australia's three

<sup>2</sup> Please see: NPPA, Authorisation Numbers A91560 – A91562, the Final Determination of which was made on 5 April 2017, in perpetuity.

payment schemes, a combination of one of the schemes with a part of another scheme, or some type of contractual arrangement, possibly between one of the schemes and one of its closest competitors.

The likely counterfactual scenario would be characterised by the factors described above which have created the rationale for the Conduct. A lesser degree of amalgamation would not remove those factors – the “splintering”, confusion and “wait and see” approach to investment decisions and the inefficacies caused by them would persist in entirety or to a large extent in the counterfactual scenario.

The public benefits described below would not be realised in the counterfactual scenario or would be realised to a significantly lesser degree. For example, the enhanced ownership interests and voting rights of smaller participants and the policy benefits would not be realised at all in the counterfactual scenario. There would be less engagement with small business and other users of Australia’s payments’ ecosystem and a lower likelihood of hybrid products being developed in the counterfactual scenario.

The ICS, Big Tech and Fin Tech companies would continue to substantially constrain the Australian payments schemes. The threat of them causing disruption in Australia’s payments industry would remain.

## 2.7 Likely effects on competition

The Conduct will not have the effect, or be likely to have the effect, of substantially lessening competition in any market, regardless of how the affected markets are defined.

### Extent of complementarity

The three Australian payments schemes own and operate largely complementary assets and do not offer services that are close substitutes for each other - eftpos’ core service is debit card derived payments through most channels including at the point of sale, in-app and online; BPAY’s core services are a bill payment service and Osko for fast payments which BPAY runs over NPPA’s infrastructure, and NPPA’s core service is fast A2A payments. BPAY’s Osko service is complementary to NPPA’s core fast A2A service and is not a substitute for it.

### The schemes are not each other’s closest competitors

As payment mechanisms and habits have changed (in particular, due to the move to digitalisation and e-commerce), a degree of marginal competition has occurred between the three payments schemes.

However, the payment schemes are not, and are not likely to be, each other’s closest competitors. Their closest competitors are global payments schemes which have significant competitive advantages over the three Australian payments schemes, including as a result of their substantially greater research development capabilities and their materially greater capacity to invest.

### No substantial change to the concentration in any possible market

The Conduct will not have any substantial effects on the concentration in any possible market.

The Conduct’s incremental change to the concentration in any possible market will be approximately 5% or less.

These are not changes in the concentration of suppliers that should concern the Commission. They would not normally concern the Commission.

### **Enhancing competition against the ICS and Big Tech**

The Conduct will enhance competition by allowing innovations by the three Australian payment schemes to achieve the necessary ubiquity and network effects faster and more assuredly than in the counterfactual scenario.

The commitment to the Prescribed Services is demonstrative of how the Conduct will achieve this. The commitment was made during the decision-making process that led to this Application. It resulted in the Applicants committing to NewCo to bring to market a minimum set of services from BPAY Opco, eftpos and NPPA in an agreed sequence and over an agreed timeframe. Most of the Prescribed Services relate to online payments and will assist eftpos with its online payment capability. Others relate to real-time payments and some relate to QR Codes.

Some of the Prescribed Services which were near term and fully funded may have been implemented in time absent the Conduct but the timing of implementation of the Prescribed Services and the funding commitment to them is unlikely to have been as certain as it is under the Implementation Agreement.

Putting in place a corporate structure that will provide the necessary leadership to allow participants in Australia's payments industry to co-ordinate their focus on an agreed roadmap of innovations and avoid the "splintering", confusion and "wait and see" approaches to investment which characterise the status quo (and which would persist in the counterfactual scenario), will result in greater competition with international payment companies, including the ICS, Big Tech and Fin Tech companies (such as, Apple Pay, Google Pay and Samsung Pay).

The ICS, Big Tech and Fin tech companies are expanding their offerings within the payments landscape in Australia by leveraging their large installed bases and deep relationships with consumers. Those global companies will continue to exercise a powerful competitive constraint in Australia's payments landscape, including through their considerable potential to cause major disruption in Australian payments markets.

### **Enhancing competition by removing inefficiencies from the investment decision-making process**

The current market structure, in which BPAY, eftpos and NPPA each operate as separate companies, has given rise to inefficiencies, as each company seeks to attract banks' support for their respective innovations.

For example, BPAY's request to pay service, eftpos' card on file service and NPPA's MPS are arguably overlapping to some extent because they offer solutions for recurring P2B payments, although the main targets of each differ.

BPAY's request to pay service is targeted at a broad range of customers including billers who want to request that payments be "pushed" to them by customers as well as small businesses and P2P; for eftpos' card on file service, the main target is customer and merchant initiated recurring in-app and online payments which is currently dominated by Visa and Mastercard, and for NPPA's MPS, the main target is billers who want authorisation from customers to "pull" payments from their accounts on a regular basis (a service currently provided by direct debits over the DE system).

Some of those innovations have similar use cases (albeit their specific targets are different. Any marginal competition between the solutions has not resulted in

improved prices and/or services for customers (financial institutions) or end-users (businesses and consumers) or any other beneficial effect for consumers.

Rather, the different solutions for the same challenge have resulted in:

- (a) Increased overall transaction costs for domestic scheme customers;
- (b) Delays in the adoption of innovations within financial institutions which, in turn, have prevented the innovations from achieving the network effects and ubiquity they need for success. The success of a payment scheme is closely linked to the ability to achieve wide adoption by participants (achieving “ubiquity”) which is often assisted by providing a constant payer experience irrespective of a particular payment method; and
- (c) Impairments from stranded assets, as has occurred with BPAY’s Osko 3 (request to pay services).

The Conduct’s primary effect will be to remove or reduce these inefficiencies from the investment decision-making process through which innovations will be launched by Australia’s payment schemes. This will enhance competition among Payment Services. It will not remove future competition.

These inefficiencies can be understood as a species of market failure arising from incomplete information, of the kind that arises where consumers do not have accurate information about the market prices or product quality, such that producers have an incentive to supply too much of some products and too little of others.<sup>3</sup>

### **Preservation of existing rules of open and non-discriminatory access and strategic roadmaps to June 2022**

Each of the three payments schemes will continue to operate substantially in accordance with their current rules – including rules that allow for open and non-discriminatory access to them and their existing strategic roadmaps to June 2022, as wholly owned subsidiaries of NewCo.

### **Checks on fundamental changes to the Schemes**

Each shareholder of NewCo will have their own class of redeemable preference shares and will have one vote at shareholder’s meetings regardless of the number of shares they hold.

The classes of redeemable preference shares will be banded together differently for nominating directors and specified extraordinary resolutions related solely to individual Payment Services. The classes of redeemable preference shares will allow users of each Payment Service to prevent specified types of fundamental changes to the Payment Service.

If NewCo’s board were to make a decision which would result in one of the following fundamental changes to a Payment Service:

- (a) Changing the nature, scale, or operation of a Payment Service;
- (b) Ceasing to provide the Payment Service;
- (c) Changing the manner of funding the operating costs of providing a Payment Service (including any requirement for particular shareholders to fund new investment in the Service) or the manner in which funds

<sup>3</sup> R Pindyck and D Rubinfeld *Microeconomics* (9<sup>th</sup> edition) (Pearson, 2018) at p 611.

generated by a payment service are utilised (including the use of funds generated by a payment service for investment in another service);or

- (d) Changing the agreed roadmap to June 2022 for the development of the Payment Service,

then any two directors will be able to call for the decision to be ratified by an extraordinary resolution (75%) of the shareholders who are participants in that Payment Service at the time.

For example, if a decision were to be made to change the manner of funding the operating costs of eftpos, or the manner in which funds generated by eftpos are utilised, and two directors called for shareholder ratification, it would be necessary for at least 75% of the shareholders who use eftpos' Payment Service to vote in favour of the resolution before it could be passed.

NewCo's governance arrangements will allow users of each Payment Service who are shareholders of NewCo to determine the future direction of the Service and offer comprehensive protections for each of the three payment schemes as they currently exist.

## 2.8 Likely public benefits

The Conduct is expected to deliver a number of benefits to Australian consumers, businesses (both small and large) and other members of the Australian public. The Applicants submit that each of the following likely benefits would not be realised in the absence of the Conduct:

- (a) Enhanced ownership interests of smaller participants, including non-ADIs, and non-bank acquirers.
- (b) Enhanced voting rights of smaller participants, including non-ADIs, and non-bank acquirers.
- (c) Enhanced engagement with small businesses and other participants in the Australian payments' ecosystem.
- (d) Reduction in uncertainty allowing for more efficient deployment of capital, sooner.
- (e) Enhanced speed to market of innovations developed by Australia's three payment schemes.
- (f) Increased likelihood of hybrid and targeted local innovations.
- (g) Reduction in the risk of stranded payments assets from innovations which fail to achieve network effects and ubiquity (both necessary for their success) in a timely way.
- (h) Reduction in transaction costs for the three Payments Schemes and their Scheme Members.
- (i) Greater import substitution.
- (j) Creation of policy benefits (including sovereignty over Australia's payments systems) and support for the Australian Government policy objective to ensure Australia is a leading digital economy by 2030.<sup>4</sup>

<sup>4</sup> <https://pmc.gov.au/domestic-policy/digital-technology-taskforce>.

- (k) Increased ease for third parties to develop more payments innovation by allowing them to access A2A and cards infrastructure through a single commercial entry point with clearer connection points to the schemes and harmonised standards, including technology standards.
- (l) Potential for synergies.
- (m) Over time, the potential to:
  - i) minimise the regulatory burden associated with complying with three separate sets of compliance obligations; and
  - ii) adopt common standards across the three payment systems.

## 2.9 Any detriments to the Australian public will be outweighed by benefits to the Australian public

The Conduct is not expected to result in any discernible detriments to the Australian public.

Any potential detriments are expected to be avoided as a result of the checks and balances described above. Those checks and balances will preserve the strategic roadmaps of each the three payments schemes to June 2022; preserve the open and non-discriminatory access offered by each of the three payments schemes; ensure that only users of a scheme who are shareholders of NewCo can determine whether any fundamental change may be made to the operation of the payment scheme, and allow new shareholders to be admitted to NewCo.

### Greater engagement with small businesses and other users

In addition, to allay any concern that the Conduct will be detrimental to small businesses and/or other participants in Australia's payments ecosystem, the Applicants are proposing to put in place mechanisms to ensure there will be greater engagement with small business and other users of Australia's payments schemes.

The greater engagement will occur through two committees to be established by NewCo. The first committee will be an end-user committee to represent the views of end-users of BPAY, eftpos and/or NPPA, being individual consumers, small businesses, big businesses, industry associations, charities, corporations, fintech operators and government departments. The second committee will be a payments service provider committee to represent the interests of the payment service providers and other organisations in the payments ecosystem (such as Token Servicers and Digital ID Service Providers).

The terms of reference for the committees will be developed by reference to the following objectives:

- (a) ensuring the board of NewCo has a strong understanding of the issues and concerns of end-users, payment service providers and other organisations in Australia's payments ecosystem;
- (a) effectively managing interaction between NewCo's board, end-users, payment service providers and other organisations in the payments ecosystem to ensure their voices are heard;
- (b) enabling end-users, payment service providers and other organisations in the payments ecosystem to provide input to NewCo's board on the general strategic context of payments, including:
  - (A) the roadmap for the development of payments services;



- (B) promoting innovation in payments; and
- (C) enhancing connectivity between, and integration of, BPAY, eftpos and NPP.

Each of the two committees will be independent, will have close links to each other to encourage a broader perspective and will include a senior representative from each of Australia's three payment schemes.

Further, NewCo's board will be required to take into consideration the committees' views to inform its decision making, including in relation to the roadmap for the development of services. The dialogue between the committees and NewCo's board will be two way.

### **eftpos**

The Conduct will not diminish eftpos' ability to compete with the ICS and Big Tech.

There is consensus among the Applicants that eftpos is critical to their ability to negotiate against the ICS and Big Tech and there is a strong and unanimous desire to ensure eftpos continues to operate as a critical pricing wedge against the ICS and Big Tech.

The desire to ensure eftpos continues to operate as a critical pricing wedge against the ICS and Big Tech is reflected in commitments to preserve existing rules of open and non-discriminatory access and to preserve eftpos' strategic roadmap to June 2022 as well as the checks on fundamental changes to the schemes described above.

## **2.10 Commission should authorise the Conduct**

In conclusion, the Applicants submit that the Commission should authorise the Conduct because:

- (a) the Conduct will not be likely to have the effect of substantially lessening competition in any market, however defined and irrespective of which counterfactual scenario is adopted; and/or
- (b) the Conduct will be likely to give rise to a net benefit to the Australian public.

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## **3 Applicants signed undertakings and declarations**

The Commission's guidance for completing a valid merger authorisation application requires the Applicants to provide:

- (a) a signed declaration; and
- (b) a signed section 87B undertaking not to complete the amalgamation until the Commission's assessment is complete.

**Schedule 1 – Undertakings / Declarations** provides a summary table of the Applicants signed undertakings and declarations. Copies of these documents may be found by referring to the Table of Annexures at the commencement of this Application.

Payment of the lodgement fee will accompany this Application.

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## 4 Claim for confidentiality

This Application includes information and documents that are confidential and commercially sensitive to the Applicants, ICA, BPAY, eftpos and NPPA and could cause commercial harm to them if disclosed.

Accordingly, we request the Commission treat the information and documents included in this Application which are marked as **[Confidential to a Party]** as confidential.

A summary of the confidential information, including reasons for the claim for confidentiality is attached to this Application in **Schedule 2 – Claims for confidentiality**.

A list of the confidential documents, including reasons for the claim for confidentiality, may be found in the Table of Annexures from **page ii** of this Application.

The confidential information relates to the Commission's core statutory function of administering and enforcing the Act. As such, the information comprises "protected information" as defined by section 155AAA(21) of the Act.

Each of the Applicants and the other parties named in the application understands that:

- (a) There will be no restriction on the internal use (including future use) the Commission may make of the confidential information consistent with its statutory functions.
- (b) The confidential information may be viewed by the Commission's external consultants (for example legal, economic and industry advisers) on the condition that each such consultant will be informed of the obligation to treat the information as confidential.
- (c) The Commission will not disclose the confidential information to any third parties (other than its external consultants) without first obtaining the applicable party's written consent (including in the form of a confidentiality waiver), unless otherwise compelled to do so by law or in accordance with section 155AAA of the Act.

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## 5 Application for Authorisation

### 5.1 Parties to the application

ICA is applying for authorisation under sub-section 88(1) of the Act on behalf of members of the Industry Committee, of which ICA is an administrator, who are shareholders of BPAY Holdco, members of eftpos and/or shareholders of NPPA, to allow them to become shareholders of NewCo.<sup>5</sup>

The following entities are members of the Industry Committee / Transaction Advisory Committee convened by the ICA: ANZ, ASL, Bendigo and Adelaide Bank Limited, CBA, Coles Group Limited, Cuscal Limited, First Data Network Australia Limited trading as Fiserv, HSBC Bank Australia Limited, Macquarie Bank Limited, NAB, Tyro Payments Limited, WBC and Woolworths Group Limited are together, the Applicants.

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<sup>5</sup> The RBA will not be acquiring shares in NewCo and will not continue to hold shares in NPPA. Consequently, the RBA is not an Applicant. It is a person named or referred to in this Application for the purposes of sub-section 88(2) of the Act.

## 5.2 Persons named and referred to in this Application

Each of the following companies: Citigroup Pty Limited, ING Bank (Australia) Limited, Indue Limited, EFTEX Pty Limited, Suncorp Metway Ltd, Adyen Australia Pty Limited, Bank of Queensland Limited, Windcave Pty Ltd (who are either members as at the date of this application of eftpos, shareholders of BPAY Holdco and/or shareholders of NPPA) are persons named and referred to in this Application and who will, subject to the Commission authorising the amalgamation, become shareholders of NewCo.

Further, each of BPAY Holdco, BPAY Opco (together, BPAY), eftpos, NPPA, the RBA and NewCo (which has not yet been formed) are persons named and referred to in this Application.

BPAY Holdco, eftpos, NPPA and the RBA have been involved in the decision-making process that led to the lodgement of this Application and have contributed to the preparation and/or review of this Application.

As such, and in accordance with sub-section 88(2) of the Act, to the extent that BPAY Opco, eftpos, NPPA and/or the members of eftpos and shareholders of NPPA and BPAY Opco listed as persons named and referred to in this Application will be knowingly involved in the Conduct for which authorisation is sought, they would take the benefit of the authorisation.

## 5.3 Conduct for which Authorisation is sought – acquisitions of shares

The conduct for which authorisation is sought comprises:

- (a) The acquisition of shares in NewCo by the shareholders of BPAY Holdco, shareholders of eftpos (once eftpos converts from a company limited by guarantee to a company limited by shares) and NPPA.
- (b) The acquisition of all the shares in each of BPAY Opco, eftpos and NPPA by NewCo.
- (c) Any conduct by the Applicants and/or any of the persons named and referred to in this application that provides directly or indirectly for the acquisitions of shares described above (together, the Conduct).

The Conduct is described in more detail in section 6 of this Application.

The Applicants submit that the Conduct for which authorisation is sought will be subject to section 50 of the Act because the Conduct will comprise corporations acquiring, directly or indirectly, shares.

In that respect, the Applicants rely upon the finding of von Doussa J. in *SA Brewing Holdings & Others v. Baxt & Others* (1989) ATPR 40-942 at 50, 275, that the words “directly or indirectly” in section 50 qualify the method of the acquisition of the shares or assets and not the word “provides” in section 50.<sup>6</sup>

The effect of His Honour’s finding is that, when assessing whether a provision of a contract, arrangement or understanding will be subject to section 50 of the Act, the question is whether the contractual provision results in the direct or indirect acquisition of shares or assets and, not whether the contractual provision directly or indirectly provides for the acquisition of shares or assets. The contractual provision must be part of the mechanics of acquiring the shares, and not ancillary to the mechanics (as, eg, a restraint of trade would be).

<sup>6</sup> Please see von J. Doussa in *SA Brewing Holdings & Others v. Baxt & Others* (1989) ATPR 40-942 at 50, 275.

If the provision does not have a direct connection with the contractual mechanisms necessary for acquiring shares or assets, the provision will not be subject to section 50 of the Act.

There are no provisions which are ancillary to the Conduct and that would have the purpose, effect or likely effect of substantially lessening competition in a market or which would satisfy the definitions of cartel conduct. Any necessary changes to NPPA's scheme rules are not expected to require a minor variation to NPPA's existing authorisation or a revocation and substitution of NPPA's existing authorisation. Neither BPAY HoldCo's nor eftpos' scheme rules are authorised by the Commission. BPAY is not expecting the Conduct to result in any changes to its scheme rules that would require an authorisation from the Commission. eftpos is considering whether the Conduct will necessitate any changes to its scheme rules that would require authorisation.

The Applicants envisage that should eftpos decide that its scheme rules require authorisation, eftpos would apply to the Commission for urgent interim authorisation and authorisation to avoid any unnecessary delays.

#### 5.4 Application under effects and benefits limbs

The Application is being made on the basis that the proposed acquisitions of shares would, in all the circumstances:

- (a) not have the effect, nor be likely to have the effect, of substantially lessening competition in any market (**effects limb**); or
- (b) result, or be likely to result, in a benefit to the public, and the benefit would outweigh any detriment to the public that would result, or be likely to result, from the Conduct (**benefits limb**).

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## 6 The Conduct

### 6.1 NewCo will own BPAY Opco, eftpos and NPPA

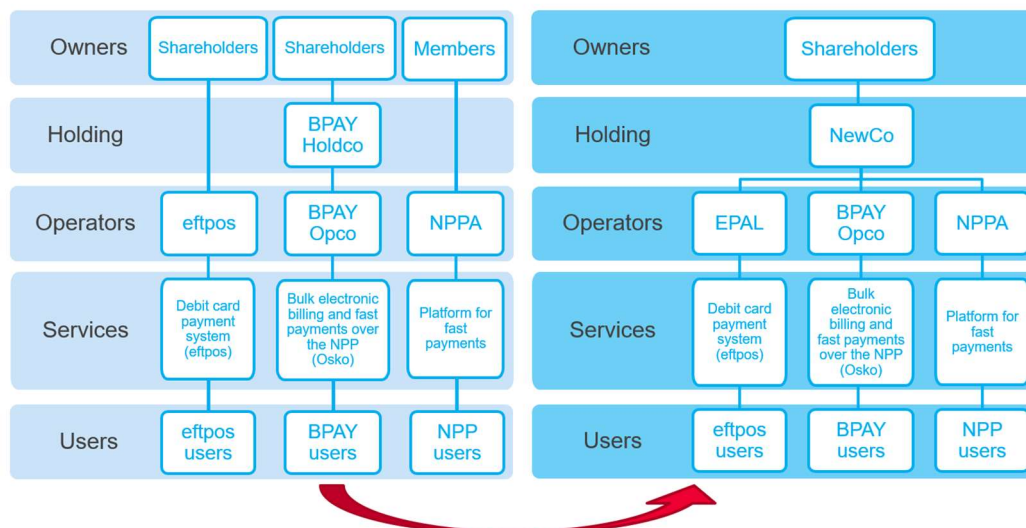
The Conduct will result in each of:

- (a) BPAY Opco;
- (b) eftpos; and
- (c) NPPA,

becoming wholly owned subsidiaries of NewCo.

**Exhibit 1** below provides a high-level schematic depiction of the structure of BPAY Holdco, eftpos and NPPA pre and post the Conduct:

Exhibit 1: Pre and post the Conduct



## 6.2 Restructure of interests of existing owners of BPAY, eftpos and NPPA

The Conduct will involve a restructure of the interests of the existing owners of BPAY Opco, eftpos and NPPA.

## 6.3 Current ownership of BPAY Opco

BPAY Opco is owned by ANZ, CBA, NAB and WBC through BPAY HoldCo in equal 25% shares.

## 6.4 Current control of eftpos

The voting rights of eftpos' members at any given time for is dependent on the member's scheme volume (as acquirer or issuer, as relevant) which is calculated based on a formula in accordance with Article 4.9 of eftpos' Constitution. This relates to both board appointment rights and member rights.

The membership interest and voting entitlement included below is correct as at 31 January 2021 and is reflective of the entitlement percentage to vote at a particular point in time.<sup>7</sup>

### Confidential Exhibit 1: eftpos' members and voting entitlement [Confidential to eftpos]:

#	Entity	[Confidential to eftpos]
1	ANZ	[Confidential to eftpos]
2	CBA	[Confidential to eftpos]
3	NAB	[Confidential to eftpos]
4	WBC	[Confidential to eftpos]

<sup>7</sup> The eftpos Constitution states that each Member is entitled to the number of votes determined by eftpos and notified to a person for the time being entered in the register (a member), which equals: i) for general meetings, its Scheme Volume; and ii) for Class Meetings, its Acquirer Scheme Volume and / or its Issuer Scheme Volume.

#	Entity	[Confidential to eftpos]
5	Bendigo and Adelaide Bank Limited	[Confidential to eftpos]
6	Cuscal Limited	[Confidential to eftpos]
7	Citigroup Pty Limited	[Confidential to eftpos]
8	ING Bank (Australia) Limited	[Confidential to eftpos]
9	ASL	[Confidential to eftpos]
10	Indue Limited	[Confidential to eftpos]
11	Woolworths Group Limited	[Confidential to eftpos]
12	Coles Group Limited	[Confidential to eftpos]
13	Bank of Queensland Limited	[Confidential to eftpos]
14	EFTEX Pty Limited	[Confidential to eftpos]
15	First Data Network Australia Limited trading as Fiserv	[Confidential to eftpos]
16	Suncorp Metway Ltd	[Confidential to eftpos]
17	Tyro Payments Limited	[Confidential to eftpos]
18	Windcave Pty Ltd	[Confidential to eftpos]
19	Adyen Australia Pty Limited	[Confidential to eftpos]
	<b>Total</b>	<b>100%</b>

## 6.5 Current ownership of NPPA

NPPA is owned by:

- (a) ANZ, CBA, NAB and WBC, each of which holds a [Confidential to NPPA]% shareholding;
- (b) Bendigo and Adelaide Bank Limited, Cuscal Limited, Citigroup Pty Limited, ING Bank (Australia) Limited, RBA, HSBC Bank Australia Limited and Macquarie Bank Limited, each of which holds a [Confidential to NPPA]% shareholding; and
- (c) ASL and Indue Limited, each of which holds a [Confidential to NPPA]% shareholding.

## 6.6 Ownership of NewCo

**Confidential Exhibit 2** sets out the shareholdings in NewCo that will result from the Conduct, noting that the size of each shareholder's holding in NewCo does not determine the shareholder's voting rights (we describe this in more detail at section 7):<sup>8</sup>

<sup>8</sup> For further detail please see section 7.2 below.

## Confidential Exhibit 2: Ownership of NewCo by shareholding

Shareholder	NewCo shares resulting from membership of eftpos	NewCo shares resulting from membership of BPAY	NewCo shares resulting from membership of NPPA	Total NewCo Shares
Adyen Australia Pty Ltd	[Confidential to the Parties]	-	-	[Confidential to the Parties]
ANZ	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]
ASL	[Confidential to the Parties]	-	[Confidential to the Parties]	[Confidential to the Parties]
Bank of Queensland Limited	[Confidential to the Parties]	-	-	[Confidential to the Parties]
Bendigo and Adelaide Bank Limited	[Confidential to the Parties]	-	[Confidential to the Parties]	[Confidential to the Parties]
Citigroup Pty Limited	[Confidential to the Parties]	-	[Confidential to the Parties]	[Confidential to the Parties]
CBA	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]
Coles Group Limited	[Confidential to the Parties]	-	-	[Confidential to the Parties]
Cuscal Limited	[Confidential to the Parties]	-	[Confidential to the Parties]	[Confidential to the Parties]
EFTEX Pty Ltd	[Confidential to the Parties]	-	-	[Confidential to the Parties]
First Data Network Australia Limited trading as Fiserv	[Confidential to the Parties]	-	-	[Confidential to the Parties]
HSBC Bank Australia Limited	-	-	[Confidential to the Parties]	[Confidential to the Parties]
Indue Limited	[Confidential to the Parties]	-	[Confidential to the Parties]	[Confidential to the Parties]
ING Bank Australia Limited	[Confidential to the Parties]	-	[Confidential to the Parties]	[Confidential to the Parties]
Macquarie Bank Limited	-	-	[Confidential to the Parties]	[Confidential to the Parties]
NAB	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]

Shareholder	NewCo shares resulting from membership of eftpos	NewCo shares resulting from membership of BPAY	NewCo shares resulting from membership of NPPA	Total NewCo Shares
Suncorp Metway Limited	[Confidential to the Parties]	-	-	[Confidential to the Parties]
Tyro Payments Limited	[Confidential to the Parties]	-	-	[Confidential to the Parties]
WBC	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]
Windcave Pty Ltd	[Confidential to the Parties]	-	-	[Confidential to the Parties]
Woolworths Group Limited	[Confidential to the Parties]	-	-	[Confidential to the Parties]
<b>TOTAL</b>	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]	[Confidential to the Parties]

As can be seen from the Confidential Exhibit above, each of the current shareholders and members, as the case may be, of BPAY, eftpos and NPPA, will become shareholders of NewCo.

The following Exhibit compares the voting rights each of the shareholders and members, as the case may be, of BPAY, eftpos and NPPA with the voting rights they will have in NewCo.

**Confidential Exhibit 3: Change in voting rights that could be cast at a General Meeting of NewCo’s shareholders**

[Confidential to the Parties]

As can be seen from the Confidential Exhibit above, in terms of the percentage of votes that could be cast at a General Meeting of NewCo’s shareholders, the Conduct will result in Coles and Woolworths accounting for [Confidential to the Parties]% of the voting rights, the Major Australian Banks accounting for [Confidential to the Parties]% of the voting rights, other ADIs accounting for [Confidential to the Parties]% of the voting rights and non-ADIs accounting for [Confidential to the Parties]% of the voting rights.

This is substantially different from the current situation, where the Major Australian Banks account for the majority of voting rights of each of the three payment schemes; other ADIs have minority voting rights in eftpos and NPPA; retailers have minority voting rights in eftpos, and non-ADIs only account for [Confidential to eftpos]% of the voting rights of eftpos.

**6.7 Principles for issuing shares to new shareholders of NewCo**

The NewCo board may seek to expand the shareholder base from time to time, such that it adequately represents the stakeholder community. In doing so, it will be guided by the following principles:



- (a) **Representation of stakeholders:** The board of NewCo should seek to expand the shareholder base so that it adequately represents the stakeholder community from time to time.

In doing so, NewCo's board:

- i) should establish an appropriate balance between the number of shareholders necessary to reflect the stakeholder universe and the need to ensure that each shareholder has a meaningful role;
  - ii) should bear in mind that the takeover provisions in Chapter 6 of the *Corporations Act 2001* (Cth) may apply to NewCo if it has 50 or more shareholders at any time (and that it is not workable for the takeovers provisions to apply); and
  - iii) should consider the application of laws such as the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Security of Critical Infrastructure Act 2018* (Cth) in the context of considering an application by an entity which is not incorporated and/or domiciled in Australia to become a shareholder of NewCo.
- (b) **Shareholder criteria:** There should be a transparent application process and criteria that need to be met in order to become a shareholder.

The shareholder criteria should require the following (subject to any determination by the board to the contrary):

- i) **Eligibility:** the applicant for shares must be either:
  - (A) a "Participant Member", an "Associate Member" or a "Payment Institution Member" for the purposes of the Business Rules and Operating Procedures applicable to the BPAY Scheme;<sup>9</sup> or
  - (B) an "NPP Participant" or "Connected Institution" for the purposes of the NPP Regulations applicable to the New Payments Platform; and/or
  - (C) a "Direct Connector" or "Direct Settler" for the purpose of the eftpos Scheme Rules applicable to the eftpos Payment Scheme; and
- ii) **Active engagement:** the applicant must intend to be actively engaged with the governance of NewCo, including with issues such as:
  - (A) the roadmap and future direction for the development of payments services;
  - (B) promoting innovation in payments; and
  - (C) enhancing connectivity between, and integration of, BPAY, NPP and eftpos.

There should also be a requirement that each new shareholder make a capital contribution. The amount of contribution is not expected to be significant.

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<sup>9</sup> Capitalised terms used in this document have the meaning given in the draft Constitution for NewCo, unless the context requires otherwise.

The Newco board could consider asking a shareholder that ceases to meet those criteria to consider requesting that NewCo redeem the preference shares held by it in accordance with the Constitution of NewCo.<sup>10</sup>

## 7 Governance of NewCo

It is intended that NewCo will provide a broad representation of stakeholders in the future of domestic payments.

The governance structure of NewCo is contained in NewCo's Constitution.<sup>11</sup>

It is a condition precedent to the Confidential Implementation Agreement that NewCo be incorporated with its constitution in the form of the NewCo Constitution (which forms Schedule 5 to the Confidential Implementation Agreement), subject to any amendments that may be required.<sup>12</sup>

### 7.1 Number of shares

The number of shares held by a shareholder in NewCo will be the greater of one; and an amount determined by reference to the capital investment made by, or the membership rights of, the shareholder in any of the three payments systems at that time (determined by reference to book value).<sup>13</sup>

NewCo's board will consist of a mix of independent directors, major shareholder-nominated directors, ADI-nominated directors and non-ADI-nominated directors. The number of shares held by any shareholder, and their voting band will determine their voting rights in relation to the nomination of certain representative directors to NewCo's board.<sup>14</sup>

### 7.2 One vote regardless of number of shares

Each shareholder will have one vote at meetings of NewCo's shareholders regardless of the number of shares they hold.<sup>15</sup>

### 7.3 Classes of redeemable preference shares

Each shareholder of NewCo will have its own class of redeemable preference shares.

The classes of redeemable preference shares will be banded together differently for the purpose of nominating directors and specified Special Majority Band Resolutions relating to individual Payment Services.

This will mean that shareholders will be banded together to nominate directors, based on the nature of the shareholder's business (for example, non-ADI shareholders will be able to together nominate three directors) and for Special

<sup>10</sup> The constitution provides that the redemption amount for each preference share redeemed will be A\$0.01.

<sup>11</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution – annexed as **Confidential Annexure 2**.

<sup>12</sup> Please see Confidential Implementation Agreement, 10 December 2020 – annexed as **Confidential Annexure 2**.

<sup>13</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 3 – Transition Plan, clause 3.4 – annexed as **Confidential Annexure 2**.

<sup>14</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution, Schedule 4, clause 2.1 – annexed as **Confidential Annexure 2**.

<sup>15</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution clause 7.15 – annexed as **Confidential Annexure 2**.

Majority Band Resolutions based on whether they use the Payment Service the subject of the Special Majority Band Resolution.<sup>16</sup>

These factors are significant because they will assist in providing fundamental checks for each of the three Payment Services. They are described in more detail in **Confidential Exhibit 4** below titled Directorships at NewCo and OpCos.

#### **7.4 Appointment of directors and protections for each of the three payment schemes**

**Confidential Exhibit 4** below provides an overview of the key features regarding the appointment of directors to the boards of NewCo and the OpCos.

##### **Confidential Exhibit 4: Directorships at NewCo and OpCos**

Feature	NewCo	OpCos
Board composition	[Confidential to the Parties]	[Confidential to the Parties]
Shareholder's nominations of directors <sup>17</sup>	[Confidential to the Parties]	[Confidential to the Parties]
Director voting	[Confidential to the Parties]	[Confidential to the Parties]
Right to call for shareholder class ratification of specified board decisions	[Confidential to the Parties] <sup>18</sup>	[Confidential to the Parties]
Specified decisions requiring special majority of directors	[Confidential to the Parties]	[Confidential to the Parties]
Board Committees	[Confidential to the Parties] <sup>19</sup>	[Confidential to the Parties]

#### **7.5 Dividends**

Dividends from NewCo will be determined by the Board (without any expectation that dividends will be paid).<sup>20</sup>

At the OpCo level, any dividends will be paid to NewCo.

#### **7.6 Transfers**

Shares will only be able to be transferred to related bodies corporate of the shareholder.<sup>21</sup>

<sup>16</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution clauses 3.4 to 3.6 and Schedules 1 and 3 – annexed as **Confidential Annexure 2**.

<sup>17</sup> Requirements relating to independence, capabilities and experience will be described in the constitution or charter. Nominees need not be associated with or employed by the shareholders in the class nominating that person.

<sup>18</sup> [Confidential to the Parties].

<sup>19</sup> [Confidential to the Parties].

<sup>20</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution clause 14.1 – annexed as **Confidential Annexure 2**.

<sup>21</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution clause 5.1 – annexed as **Confidential Annexure 2**.

## 7.7 Member's liability

Each member's liability will be limited to its unpaid share capital (which is expected to be zero).

## 7.8 Funding

The funding arrangements for NewCo are yet to be determined but the following key principles will inform any key decisions on funding:

- (a) NewCo should be economically self-sustaining.
- (b) There is no expectation of dividends on, or redemption or sale of, shareholdings in NewCo.
- (c) The day-to-day operating costs of systems will be funded by users of systems.
- (d) The costs of strategic investments will be funded at NewCo level (by a method to be determined).
- (e) Imposing funding requirements on any NewCo shareholder would require their agreement.<sup>22</sup>

## 7.9 More open governance structure

As detailed above, the governance structures in place that will apply to NewCo ensures:

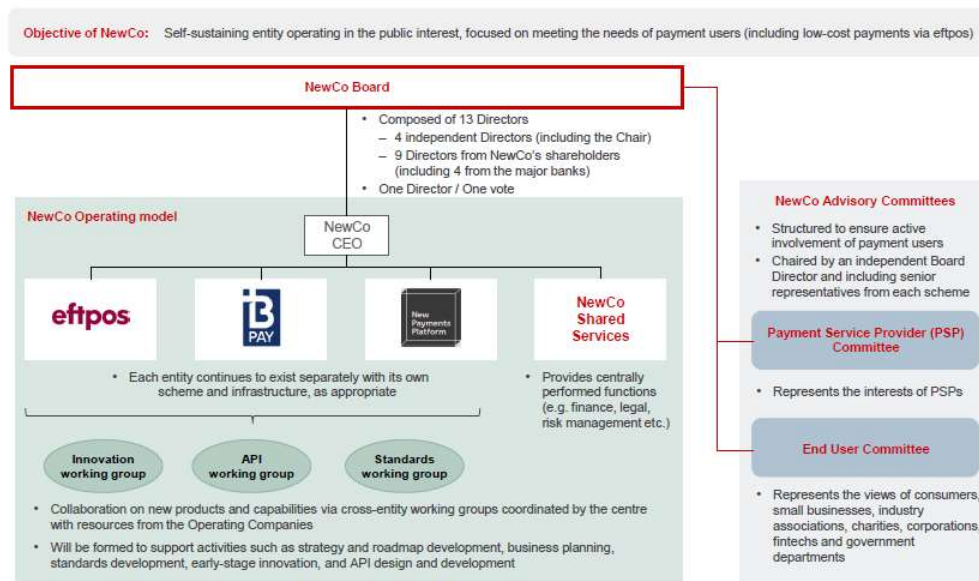
- (a) for a balanced, single board that will be more open and inclusive, representing a broader range of diverse payment stakeholders. The Major Australian Banks will have less influence, moving from a majority of votes at eftpos and BPAY today, to four from 13 seats on the NewCo board;
- (b) that four of the 13 Directors will be independent, including the Chair. Independent Non-Executive Directors will be senior, accomplished leaders, selected according to specific criteria which include experience in relevant service-based industries that are significant end-users of the Australian domestic payment systems (eg small business and Fintechs);
- (c) that smaller payment users in particular will be better represented, including through the creation of advisory committees, each chaired by an independent Board director; one specifically for members of the payment schemes and one for end-users (eg small business, small retailers, Fintechs and consumers).

All NewCo directors will have one vote and all NewCo shareholders, regardless of size, will have one vote at General Meetings.

**Exhibit 2** below provides an overview of the envisaged NewCo structure, including reference to the proposed advisory committees.

<sup>22</sup> Please see section 4.5(b) of Transition Plan which is Schedule 3 of the Confidential Implementation Agreement, 10 December 2020 – annexed as **Confidential Annexure 2**. See also clause 10.5(b) and 7.5 of the Transition Plan.

Exhibit 2: Schematic overview of the proposed governance model



7.10 Principles for increasing engagement with customers

The Applicants anticipate that NewCo should establish two advisory committees, being:

- (a) an End-User Committee to represent the views of end-users of BPAY, eftpos and/or NPPA, being individual consumers, small businesses, big businesses, industry associations, charities, corporations, fintech operators and government departments ("**End-Users**"); and
- (b) a Payments Service Provider Committee to represent the interests of the payment service providers ("**PSPs**") and other organisations in the payments ecosystem (such as Token Servicers and Digital ID Service Providers).

The Applicants anticipate that the terms of reference for the End-Users and PSPs Committees should be developed by reference to the following objectives:

- (c) ensuring the Board of NewCo has a strong understanding of the issues and concerns of End-Users and of PSPs;
- (d) effectively managing interaction between the Board and both End-Users and PSPs to ensure that the voices of End-Users and Participants are heard;
- (e) enabling End-Users and PSPs to provide input to the Board on the general strategic context of payments, including:
  - (A) the roadmap for the development of payments services;
  - (B) promoting innovation in payments; and
  - (C) enhancing connectivity between, and integration of, BPAY, NPP and eftpos.

The structure of the Committees should be developed by reference to the objectives that the Committees, including that each Committee:

- (f) should be independent in their construct and representation, and safeguards should be put in place to manage conflicts of interest. An independent director of NewCo could act as a chair for each Committee;
- (g) should have close links with each other to encourage a broader perspective across both groups within the payments' ecosystem. Where appropriate, a representative from the End-User Committee could attend the PSP Committee and vice versa as a non-voting member to facilitate informed debate and decision making and the Committees reaching consensus on key issues, where possible, before the views of each Committee are passed to the Board of NewCo;
- (h) should include senior representatives of each of BPAY Group Pty Ltd, eftpos Payments Australia Limited and NPP Australia Limited.<sup>23</sup>

NewCo's board should be required to take into consideration the Committees' views to inform its decision making, including in relation to the roadmap for the development of services. It is anticipated that the dialogue between the Committees and the Board should be two way.

Each Committee should meet periodically (as determined by each of them).

## 8 Implementing the Conduct

BPAY Holdco, eftpos and NPPA entered into Implementation Agreement, subject to the satisfaction of conditions precedent, including obtaining authorisation from the Commission.<sup>24</sup>

The Implementation Agreement and three of its annexures, the Implementation Steps, Timetable and Transition Plan respectively, describe how the Conduct will be implemented, once the conditions precedent have been satisfied.

With reference to the BPAY Holdco Company structure (see **Exhibit 6A**), the BPAY Newco entity (currently owned 100% by BPAY Holdco) and Syph (currently owned 75% by BPAY Holdco) will not form part of the Conduct.<sup>25</sup> Post amalgamation, these assets will continue to be held by BPAY HoldCo.

### 8.1 Implementation Steps

Under the Implementation Steps, each of BPAY Holdco, eftpos and NPPA will, with the assistance of NewCo (where applicable), be responsible for taking the following steps:

Entity	Summary of implementation step
BPAY Holdco	[Confidential to the Parties] <sup>26</sup>
	[Confidential to the Parties] <sup>27</sup>

<sup>23</sup> Newco will seek to roll-in existing advisory committees of BPAY, NPPA and eftpos where relevant and appropriate to do so.

<sup>24</sup> Please see section 3 of the Confidential Implementation Agreement, 10 December 2020 – annexed as **Confidential Annexure 2**.

<sup>25</sup> Please note the reference to "NewCo" in this paragraph is BPAY Newco, a new company in development by BPAY, and is not the "NewCo" referred to in this application. The BPAY Newco referred to in this paragraph and Syph do not form part of the Conduct.

<sup>26</sup> [Confidential to the Parties].

<sup>27</sup> [Confidential to the Parties].

Entity	Summary of implementation step
	[Confidential to the Parties] <sup>28</sup>
	[Confidential to the Parties] <sup>29</sup>
eftpos	[Confidential to the Parties] <sup>30</sup>
	[Confidential to the Parties] <sup>31</sup>
	[Confidential to the Parties] <sup>32</sup>
	[Confidential to the Parties] <sup>33</sup>
NPPA	[Confidential to the Parties] <sup>34</sup>
	[Confidential to the Parties] <sup>35</sup>
	[Confidential to the Parties] <sup>36</sup>

## 9 Commitment to provide and develop the Prescribed Services

The Transition Plan prescribes a minimum set of services that BPAY Opco, eftpos and NPPA must provide on day one and develop in the near term (together, the Prescribed Services).<sup>37</sup>

The introduction of these Prescribed Services formed part of the Industry Committee's discussions and engagements between the various stakeholders and was an important element in ensuring broad commitment to the Conduct.

Some of the Prescribed Services which were near term and fully funded may have been implemented in time absent the Conduct but the timing of the implementation of the Prescribed Services and the funding commitment to them is unlikely to have been as certain as it is under the Implementation Agreement.

The commitment to and timing certainty of the Prescribed Services are a direct effect and benefit of the Conduct.

The resolution of the Industry Committee to recommend the Conduct, and the subsequent decisions to proceed with the Conduct, subject to authorisation from the Commission, would not have occurred without the commitment to the Prescribed Services.

<sup>28</sup> [Confidential to the Parties].

<sup>29</sup> [Confidential to the Parties].

<sup>30</sup> [Confidential to the Parties].

<sup>31</sup> [Confidential to the Parties].

<sup>32</sup> [Confidential to the Parties].

<sup>33</sup> [Confidential to the Parties].

<sup>34</sup> [Confidential to the Parties].

<sup>35</sup> [Confidential to the Parties].

<sup>36</sup> [Confidential to the Parties].

<sup>37</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 3 – Transition Plan section 5 – annexed as **Confidential Annexure 2**.

This is evident from pages 9 and 10 of the Confidential Memorandum of NewCo’s Potential Governance and Operating Model, dated 16 October 2020, attached to the Industry Committee’s Resolution to recommend the Conduct, a confidential copy of which is annexed as **Confidential Annexure 1**.

Further, the commitment to the Prescribed Services is conditional on the Conduct being approved.

The Prescribed Services are set out in the Transition Plan, which is Schedule 3 of the Implementation Agreement, a copy of which is at **Confidential Annexure 2** and described below in **Confidential Exhibit 5**.

The Prescribed Services:

- (a) are to be near-term services that will be self-funded or require no further capital contribution;
- (b) will be delivered before June 2022, or are mandated in the relevant scheme governing rules and should continue with minimal disruption; and
- (c) do not limit NewCo’s flexibility to define the medium to long term development of Payment Services from July 2022 onwards.

**Confidential Exhibit 5: Prescribed Services<sup>38</sup>**

[Confidential to the Parties]<sup>39</sup>

**9.2 Delivery of Prescribed Services**

The Prescribed Services are expected to be increasingly delivered through APIs that follow a common standard.

NewCo will address the following API assets across the schemes:

- (a) NPP – API framework and sandbox;
- (b) eftpos – [Confidential to eftpos]

API	Status	Go Live Date (Calendar Year)
BIN Inquiry	Live	Oct – 2020
EPIC Inquiry / eDSS	Live (Verrency Only)	Nov – 2020
[Confidential to eftpos]	[Confidential to eftpos]	[Confidential to eftpos]
[Confidential to eftpos]	[Confidential to eftpos]	[Confidential to eftpos]
[Confidential to eftpos]	[Confidential to eftpos]	[Confidential to eftpos]
[Confidential to eftpos]	[Confidential to eftpos]	[Confidential to eftpos]

<sup>38</sup> For those Prescribed Services that have not been mandated as part of the decision making process to proceed with the Conduct, subject to authorisation from the Commission, a non-binding resolution has been made by the Applicants to use reasonable endeavours to build out those services to customers

<sup>39</sup> [Confidential to the Parties].



API	Status	Go Live Date (Calendar Year)
[Confidential to eftpos]	[Confidential to eftpos]	[Confidential to eftpos]
[Confidential to eftpos]	[Confidential to eftpos]	[Confidential to eftpos]
[Confidential to eftpos]	[Confidential to eftpos]	[Confidential to eftpos]

- (c) BPAY Opco – four live APIs (retrieve BPAY biller details, validate BPAY payment, generate BPAY batch file, generate BPAY customer reference numbers), two APIs entering pilot (submit BPAY payment, biller management) and two further APIs in development.

### 9.3 BPAY’s planned non-payment initiatives

[Confidential to BPAY – Confidential to the Parties] As detailed at clause 7.5 of the Transition Plan:

[Confidential to BPAY – Confidential to the Parties]

In addition, it has not been determined whether BPAY’s planned KYP invoice fraud tool will be included or excluded from the Conduct.

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## 10 Rationale

### 10.1 The Industry Committee’s non-binding recommendation

The governance framework established under the Confidential Participation Agreement allowed the Industry Committee to consider and make non-binding recommendations as to whether the objects of each of BPAY Opco, eftpos and NPPA might be served by amalgamating them, and if so, how.

The Industry Committee comprised 14 industry participants.<sup>40</sup>

Senior representatives of each of NPPA, eftpos and BPAY Holdco, as well as the RBA,<sup>41</sup> attended all meetings of the Industry Committee as observers.

From around July 2020, the Industry Committee discussed and considered the Hypothesis.

During a meeting of the Industry Committee held on 16 October 2020, the Industry Committee agreed that a new, stronger entity is needed to shape payments in Australia and provide sustainable competition to global payments companies.<sup>42</sup>

The Industry Committee further determined that the respective interests of NPPA’s, BPAY Opco’s and eftpos’ constituent shareholders, stakeholders, the

<sup>40</sup> Including: ANZ, ASL, Bendigo and Adelaide Bank Limited, CBA, Coles Group Limited, Cuscal Limited, First Data Network Australia Limited trading as Fiserv, HSBC Bank Australia Limited, Macquarie Bank Limited, NAB, Tyro Payments Limited, WBC, Windcave Pty Ltd and Woolworths Group Limited. Windcave Pty Ltd withdrew from the Industry Committee around the middle of September 2020.

<sup>41</sup> The RBA is represented by Mr Tony Richards (RBA Policy) as an observer to these proceedings.

<sup>42</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP).

public interest, and the objects of each of NPPA, BPAY Opco and eftpos would be best served by an amalgamation of them.<sup>43</sup>

Consequently, the Industry Committee unanimously agreed on the non-binding resolution on 16 October 2020,<sup>44</sup> recommending the Conduct and the establishment and operation of NewCo.

The Board of Directors of BPAY, eftpos and NPPA have subsequently passed resolutions to engage in the Conduct,<sup>45</sup> subject to certain conditions including obtaining authorisation from the Commission and taking into account the respective interests of their constituent shareholders, stakeholders and the public interest. In the case of eftpos, this was subject to the members of eftpos voting in-principle to proceed to progress towards consolidation. Member approval was provided on 10 December 2020.

The Applicants submit that the Conduct will further each of NPPA's, BPAY Opco's and eftpos' objectives as expressed in their respective constituent documents:<sup>46</sup>

- (a) **BPAY Opco:** Although BPAY Opco does not have clearly defined objectives within the applicable constituent documents, BPAY Holdco shareholders consider that the Conduct has potential benefits for the industry such as improved coordination, which may lead to innovation opportunities;
- (b) **eftpos:** Pursuing the Conduct would improve the ability for eftpos' members to develop and determine the strategic, commercial and technical direction of the eftpos system and manage the positioning of the eftpos system as a payment system. The Conduct will not prevent eftpos from continuing to invest in the infrastructure required for the development of the eftpos system; and
- (c) **NPPA:** Pursuing the Conduct would further the objects of NPPA because the creation of NewCo is intended to provide the best, efficient, accessible payment infrastructure to users. Increased coordination is intended to avoid inefficient duplication of investment, reduce costs to deploy and run payment services and streamline the engagement model as additional small to mid-sized players interact with the Australian payments system.

## **10.2 Amalgamation is needed to address current deficiencies in the Australian payments landscape**

In a rapidly evolving payments environment, Australian payment providers and their offerings must be agile, and have the capacity to invest in, produce and deploy technological advancements and solutions to transition to digitalisation and the e-Commerce era. They also need to be able to invest in maintaining and building resilience in the face of increasing demands on Australian payments infrastructure, including legacy demands. According to the RBA, payment

<sup>43</sup> Please see Industry Committee Resolution, 16 October 2020 – annexed as **Confidential Annexure 1**.

<sup>44</sup> Please see Industry Committee Resolution, 16 October 2020 – annexed as **Confidential Annexure 1**.

<sup>45</sup> Please see each of the Board Resolutions – annexed as **Confidential Annexures 11, 29, 35 and 36**.

<sup>46</sup> Please see Industry Committee Resolution, 16 October 2020 – annexed as **Confidential Annexure 1**.

services providers must embody or supply the following attributes and functionality at a minimum:<sup>47</sup>

- (a) timeliness of payments;
- (b) open access;
- (c) ease of use;
- (d) ease of integration;
- (e) low and transparent prices;
- (f) interoperability;
- (g) security and robustness; and
- (h) risk management.

The current domestic payments industry faces substantial challenges in achieving these desired attributes and is at risk of not satisfactorily meet the needs of Australian consumers and businesses without the Conduct.

The purpose of the Conduct is to address these deficiencies by forming a NewCo that provides multi-service infrastructure, broad capability, low cost payment acceptance services and a unified roadmap that is responsive to changing consumer expectations and technological advancements.<sup>48</sup>

The Conduct will benefit users of the NPP, eftpos and BPAY systems. It is intended to further innovation and enable the realisation of efficiencies to improve the Payment Services of each of NPPA, BPAY Opco and eftpos.<sup>49</sup>

The overarching rationale for the Conduct is to address the current shortcomings in the domestic payments industry, as identified by the RBA's review of retail payments regulation in 2011<sup>50</sup> and, more recently in its 2019 review.<sup>51</sup>

The Industry Committee's non-binding endorsement of the Conduct reflects an expectation that the Conduct will address a number of the critical deficiencies in the current domestic payments industry. These deficiencies, as identified by industry participants include, for example:<sup>52</sup>

- (a) A lack of appropriate infrastructure to support innovation, causing Australia to fall behind on the development of both innovative card and real-time A2A solutions.

<sup>47</sup> Please see RBA, Strategic Review of Innovation in the Payments System: Issues for Consultation, June 2011 – annexed as **Annexure 1**.

<sup>48</sup> Please see Industry Committee Resolution, 16 October 2020 – annexed as **Confidential Annexure 1**.

<sup>49</sup> Please see Industry Committee Resolution, 16 October 2020 – annexed as **Confidential Annexure 1**.

<sup>50</sup> Please see RBA, Strategic Review of Innovation in the Payments System: Issues for Consultation, June 2011 – annexed as **Annexure 1**.

<sup>51</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019 – annexed as **Annexure 2**; Please also see Philip Lowe, 'Speech – A Payments System for the Digital Economy', 10 December 2019 – annexed as **Annexure 5**.

<sup>52</sup> Please see Industry Committee Resolution, 16 October 2020, page 40 – annexed as **Confidential Annexure 1**.

- (b) Inefficiency in the calls for investment in Adoption Costs and resource allocation by common participants<sup>53</sup> leading to slower innovation, as capability development continues to be duplicated across entities with a cost multiplier effect on shareholders and members to integrate innovations. The risk of duplication or fragmentation results in key participants holding back investment because of a lack of certainty of outcomes and return. In addition, there are delays in implementing investments which exposes the domestic schemes to disintermediation by larger foreign rivals.
- (c) The lack of resources available to small to mid-sized participants to engage with multiple schemes (eg, to understand which domestic or international scheme has the most relevant proposition and meet IT development and compliance requirements). Engaging with multiple entities is also resource intensive for larger participants.
- (d) The increasing competitive strength of Visa and Mastercard and the increasing power of Big Tech at the expense of domestic entities, leading to the loss of ability to retain profits and control within Australia with an undesired dependency on international players as a result of commercial decision of the shareholders/members.
- (e) The loss of opportunity for members of eftpos who are not shareholders of NPPA and BPAY, and the loss of opportunity for members of NPPA who are not shareholders of eftpos and BPAY, to be fully represented in any innovations in domestic payments and benefit from long-term growth in A2A over the next five years and beyond.
- (f) The opportunity costs for shareholders and participants of NPPA and members of eftpos arising from the lack of domestic hybrid innovations involving NPPA and eftpos.

As a single entity, NewCo (through its Board of Directors) will be able to align strategies, investments and offerings to better and more efficiently meet consumer and business expectations and remain competitive in a rapidly evolving and increasingly competitive payments landscape, including against much larger global competitors such as Mastercard, Visa, and the technology giants like Apple, Samsung, Google and Facebook, Ant Group and Tencent. Ensuring a strong domestic payments company is central to meeting the competitive pressures from larger global companies.

The Conduct is consistent with the Federal Government's commitment to a modern payments system that meets the current and future needs of all Australians, as expressed by the Federal Government when commissioning a review into the regulatory architecture of the payments system to ensure it is fit-for-purpose and responsive to advances in payments technology. One aspect of the review will involve undertaking an assessment of how to create more productivity-enhancing innovation and competition in the payments system, including in relation to the pace and manner in which the NPP is being rolled out and enhancements for both eftpos and NPP are supported by industry.<sup>54</sup>

<sup>53</sup> Please note that the reference to "calls for capital investment... from participants" is not a call for that shareholder to provide funding to a scheme for an innovation. All three of the schemes are self-funding. The call for capital is a request, for example, for a shareholder to invest capital in making a change to that shareholders' IT system that would enable them to take up an innovation.

<sup>54</sup> Please see Australian Federal Treasury, Review of the Australian Payments System Issues Paper, 20 November 2020, page 2 – annexed as **Annexure 2**.

### 10.3 Benefits for the Australian public, the three payments systems and the domestic payments industry

The Applicants consider the Conduct to be the most appropriate manner to address the challenges faced in the current domestic environment. They consider it will result in considerable benefits<sup>55</sup> for key stakeholders, including:

- (a) **The public:** the Conduct will facilitate the development and faster delivery of new payments functionality that will benefit consumers, merchants/ SMEs and large institutional customers alike, specifically:
  - i) **Consumers:** the Conduct is likely to lead to hybrid innovations across the Payments Services that can be tailored to the Australian market which improve the end-user payment experience;
  - ii) **Merchants / SMEs:** the Conduct is likely to lead to faster development and delivery of innovations which allow merchants / SMEs to enjoy a lower cost of accepting payments and a reduction in their working capital requirements. Merchants / SMEs are also likely to benefit from increased ways to digitally receive and make payments, and receive payment without needing a physical POS terminal. The Conduct will accelerate the implementation of initiatives to improve speed of payments and receipt of funds, which will greatly benefit smaller retailers. A number of Merchants and SMEs process payments through third-party acquirers (for example, Tyro and other non-major Australian bank members of eftpos) who work with the payment schemes to find the best price solution. The Conduct will directly benefit these smaller retailers who do not operate as direct self-acquirers.;
  - iii) **Large institutions:** the Conduct is likely to allow larger financial institutions to benefit from innovations including, for example, ones which integrate payments into automated business processes and increased choice which will improve their negotiating power with ICS and place downward pressure on prices.
- (b) **BPAY Opco, eftpos and NPPA and their shareholders/members:** the Conduct is likely to result in faster speed to market, more readily aligned agendas, integrated product roadmaps, shared technical expertise and economic efficiencies that would accrue to shareholders from a more efficient deployment of capital; and
- (c) **The domestic payments industry:** the Conduct will maintain a sustainable, resilient and scaled alternative to global schemes and technology companies that enables continued innovation, a low cost of acceptance and effective risk management, to the benefit of the domestic payments industry and the Australian public. In that regard, in a speech by the Governor of the RBA on 7 December 2020, the Governor observed:

*“One of the factors driving innovation is the increasing interest of technology-focused businesses in payments. These businesses include the fintechs and the large multinational technology companies, often known as the ‘big techs’. They are a source of innovation and are playing a role in the development of digital*

<sup>55</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 4 – annexed as **Confidential Annexure 1**.

wallets. These wallets are being used more frequently and I expect this trend has a long way to go. Another trend is the increasing use of payments within an app. Big techs are playing important roles on both fronts. This influence of the big techs is perhaps most evident in China, with Ant Group (owners of Alipay) and Tencent (WeChat Pay) having developed new payments infrastructure that has led to fundamental changes in how retail payments are made in China.”

“Beyond the issues raised by digital wallets, there are other competition issues raised by the involvement of the big tech companies in payments.

“These companies are mostly platform businesses that facilitate interactions between different types of users of their platform. They have very large user bases, benefitting from strong network effects that can make it hard for competitors. Data analysis is part of their DNA and they have become increasingly effective at commercialising the value of data they collect and analyse. Providing additional services, such as payments, also reduces the need for users to ‘leave’ the platform. So there are complex issues to be worked through here. One of these is the terms of access to the platform and whether the platform requires the payments be processed by the platform’s own payment system.”<sup>56</sup>

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## 11 BPAY

### 11.1 Description of BPAY

BPAY Pty Ltd is a proprietary company limited by shares responsible for managing and operating a suite of payments products including the BPAY Scheme and Osko.

Syph and BPAY Newco depicted in **Exhibit 6A** below are excluded from the Conduct as described in section 6 above.

The operations of Syph and BPAY Newco are described in section 6 above.

As detailed at clause 7.5 of the Confidential Transition Plan, **[Confidential to BPAY – Confidential to the Parties]**.<sup>57</sup>

BPAY’s offices are based in Sydney, Australia. As reported in BPAY’s 2020 Annual Report, **[Confidential to BPAY]**.

A copy of BPAY’s confidential 2020 Annual Report is annexed as **Confidential Annexure 14**.<sup>58</sup> As at 31 November 2020, BPAY (excluding Syph) had 132 employees.

### 11.2 Governance framework of BPAY

BPAY Group and BPAY are each wholly owned by BPAY HoldCo. BPAY Group and BPAY are proprietary companies limited by shares, and BPAY manages the

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<sup>56</sup> Please see <https://www.rba.gov.au/speeches/2020/pdf/sp-gov-2020-12-07.pdf>.

<sup>57</sup> **[Confidential to the Parties]**.

<sup>58</sup> **[Confidential to BPAY]**.

BPAY Scheme. BPAY payments and Osko by BPAY products run via the BPAY Scheme.

BPAY Holdco is a proprietary company limited by shares which is owned by the Major Australian Banks.

### 11.3 Legal architecture of BPAY Holdco

The table below provides a high-level summary of the following five structures in the current legal architecture of BPAY Holdco being:

- (a) **Purpose:** the objects of the company;
- (b) **Ownership:** its ownership structure (eg type of company, types of shareholding and transferability);
- (c) **Participation:** the participation structure (eg mutual or not, tiered or not) of the system operated by the company;
- (d) **Governance:** the governance structure (eg board and advisory committees, voting entitlements) of the company for its system; and
- (e) **Funding:** the funding structure (eg share subscriptions, fees) and approach (eg self-sustaining or profit maximising) used by the company for its system.

Purpose	Key objects of company	BPAY Holdco invests in, and oversees, its subsidiaries
<b>Ownership</b>	Type of company	Proprietary company limited by shares.
	Classes of shares/membership	Class "A" or "B" ordinary shares. Preference shares (none currently on issue).
	Voting rights of members	Class "A" shares confer on any holder, present by representative or by proxy or attorney at any general meeting of the company, the right to cast 1 vote irrespective of the number of shares held by the voting member.  Class "B" shares carry no voting rights.
	Parity between shareholders within the same governance band	Yes.
	Dividends / distributions	The directors may pay any interim and final dividends as, in their judgment, the financial position of the company justifies. The payment of a dividend does not require confirmation by a general meeting.
	Restrictions on transfer	Must be in writing in any usual form or in any other form that the directors approve, signed by or on behalf of both the transferor and transferee.  No transfer of shares of any class will be made other than to another member in

Purpose	Key objects of company	BPAY Holdco invests in, and oversees, its subsidiaries
		<p>proportion to the number of shares held by each member at the time of the transfer. In the event that there is no other member, a member may transfer its shares in that class to a person approved by the directors.</p> <p>A member may transfer all of its shares to a body corporate that is directly or indirectly wholly-owned by that member, a body corporate that directly or indirectly wholly-owns that member (Parent Company) or a body corporate that is directly or indirectly wholly-owned by that member's Parent Company.</p> <p>The directors may, in their absolute discretion, decline to register any transfer of shares except where a person is entitled to the benefit of a security interest or a person purchases them from a person entitled to the benefit of a security interest.</p>
	Redemption of shares	N/A
<b>Participation</b>	Connection with Ownership	Ownership not required for participation.
	Banding	N/A
<b>Governance</b>	Board composition	The Board of BPAY HoldCo comprises one representative from each of the Class A shareholders (the Major Australian Banks).
	Voting rights of directors	Each director entitled to vote on a resolution will have one vote in respect of a resolution.
	Relevant committees	<p>The directors may resolve to delegate any of their powers to a committee or committees consisting of such number of directors as they think fit.</p> <p>BPAY HoldCo has two committees which oversee all entities in the group:</p> <ol style="list-style-type: none"> <li>1. Risk Committee;</li> <li>2. Finance and Audit Committee.</li> </ol> <p>BPAY Group has one committee:</p> <ol style="list-style-type: none"> <li>1. Remuneration Committee.</li> </ol> <p>BPAY has one committee:</p> <p>Under its constitution, it must establish a Management Committee, which is responsible for the effective operation, development, marketing and management of the BPAY Scheme. The Management Committee has 2 sub-committees.</p>
<b>Funding</b>	Approach	Operates BPAY Group and BPAY on a commercial basis.



Purpose	Key objects of company	BPAY Holdco invests in, and oversees, its subsidiaries
	Share subscriptions / membership fee	When the directors issue shares they may differentiate between the holders as to the amount of calls to be paid and the times of payment. The directors may make calls on the members for any money unpaid on their shares which is not by the terms of issue of those shares made payable at fixed times.
	Fees	N/A
	Member's liability	Limited to any unpaid share capital.

**Exhibit 6A: BPAY Holdco Company structure**



**11.4 Description of platform**

**(a) BPAY Scheme**

The BPAY Scheme manages the BPAY and Osko services and has a membership of over 150 financial institutions. It also provides access to the centralised services of marketing, brand strategy, research, customer training, expert product knowledge, business development, risk and compliance and fraud monitoring.

**(b) BPAY**

BPAY is an Australian electronic bill payment service that enables payments to be made through a financial institution's online, mobile or telephone banking facility to organisations which are registered billers.

Over 60,000 businesses offer BPAY to their customers to enable them to pay their bills securely from over 150 financial institutions. BPAY makes it easier for businesses to reconcile their accounts receivable.

[Confidential to BPAY – Confidential to the Parties].<sup>59</sup>

Customers can pay their bills by:

<sup>59</sup> [Confidential to the Parties].

- i) finding the BPAY biller code and CRN on their bill;
- ii) logging in to their online or mobile banking; and
- iii) selecting BPAY and their preferred account, then entering the BPAY details, amount and payment date.

**(c) BPAY View**

BPAY View is Australia's only in bank digital bill presentment service. It offers an easy way for customers to have their bills (eg utilities bills and internet plan bills) delivered directly to their online banking account.

BPAY View sends bills straight to the same online banking that customers use to pay them, eliminating the risk of bills being misplaced in the mail or in email inboxes.

Depending on the customer's bank, the customer will receive a convenient SMS, email or bank message reminder to pay their bill. Its secure online access makes BPAY View easier for payers to pay their bills on time.

**(d) Osko**

Osko is a payments service designed to facilitate the real time transferring of funds between individuals or businesses and was one of the first services to operate using the NPP. It allows customers to make near instant payments from one bank account to another, either by using a BSB and account number or an NPP PayID. Approximately 80% of transactions processed by NPPA are Osko transactions.<sup>60</sup>

**(e) Syph**

Syph is an enterprise SaaS business developed in 2018 in partnership between BPAY Holdco and BCG Digital Ventures. Syph uses artificial intelligence and machine learning, augmented by human intelligence, to accurately extract and interpret complex information from documents. It also allows users to unlock the power of data to add value to their businesses. As stated above, Syph will be excluded from the Conduct and will remain owned by its current shareholders.

**Confidential Exhibit 7: BPAY Entities' current infrastructure and providers**

[Confidential to the Parties]<sup>61</sup>

**11.5 BPAY Group's website**

For more information about BPAY Group, please refer to its website at: <https://bpaygroup.com.au/what-we-do/>.

<sup>60</sup> Please see RBA Data table C6.1: Direct Entry and NPP – Original Series (January – September 2020), available at: <https://www.rba.gov.au/payments-and-infrastructure/resources/payments-data.html>.

<sup>61</sup> [Confidential to the Parties].

## 12 eftpos

### 12.1 Description of eftpos

eftpos is an unlisted public company responsible for managing and promoting the Australian eftpos payment system (and its associated payments and processing infrastructure and services).<sup>62</sup>

eftpos is Australia's debit card payment system, allowing real time electronic payments accessing a debit account, used by all Major Australian Banks and over 30 additional second tier financial institutions. It has launched limited online/digital payments with more than 34 financial institutions, including three major banks.

In 2018/2019, eftpos processed approximately 2.2 billion transactions, having risen from approximately 1.8 billion transactions in 2017/2018.<sup>63</sup>

eftpos' registered office is at Level 11, 45 Clarence Street Sydney NSW 2000. As reported in eftpos' 2020 Annual Report, eftpos' net revenue from continuing operations for the 2020 financial year was \$75.8 million, and its net profit was \$10.68 million. As at 11 February 2021, eftpos has 118 employees.

A copy of eftpos' 2020 Annual Report is annexed as **Annexure 6**. The governance framework of eftpos is:

#### (a) Overview

eftpos has been incorporated since 2009 and is a company limited by guarantee, operated as a mutual style organisation with membership comprising major financial institutions, two major retailers, and aggregator payment service organisations.

#### (b) Board

The eftpos Board consists of three independent directors, the Managing Director and eight directors nominated by members.

The composition of the Board is determined using the following principles:

- i) the Chairman of the Board is an independent non-executive director;
- ii) no director can be a director of another card payment scheme; and
- iii) an independent director is a non-executive director (eg is not a member of management or employee of a member organisation).

The Board represents a broad cross-section of experience from within the payments industry, retail, banking and finance, and other consumer-based industries.

#### (c) Regulations and procedures

<sup>62</sup> Please see eftpos 2020 Annual Report – annexed as **Annexure 6**.

The framework for the eftpos system is provided primarily through:

- i) the Constitution of eftpos;
- ii) the eftpos scheme rules; and
- iii) the TOSR.

Pursuant to the Constitution of eftpos and the eftpos scheme rules, a member must comply with the scheme rules that are applicable to that member and the relevant services it uses.

The scheme rules have the effect of a contract under seal between each Member and eftpos, and among Members, and each Member must comply with the TOSR prescribed by eftpos as if it were part of the scheme rules.

Members who sponsor or represent participants are required to ensure their general participants comply with the scheme rules.

**(d) Members**

As at the date of this application, there are 19 Members of eftpos, being: Adyen Australia Pty Limited, ANZ, ASL, Bank of Queensland Limited, Bendigo and Adelaide Bank Limited, Citigroup Pty Limited, CBA, Coles Group Limited, Cuscal Limited, EFTEX Pty Limited, First Data Network Australia Limited, Indue Limited, ING Bank (Australia) Limited, NAB, Windcave Pty Ltd, Suncorp Metway Ltd, Tyro Payments Limited, WBC and Woolworths Group Limited.

**(e) Participation criteria**

Participation in the eftpos system is voluntary.

Relevantly, a participant in the eftpos system may be:

- i) a direct settler; and/or
- ii) a settlement agent, being a direct settler that has been appointed by another member (an indirect settler) to settle on its behalf; or
- iii) an indirect settler that has appointed a settlement agent to settle on its behalf; or
- iv) a member that settles bilaterally pursuant to a bilateral Settlement Agreement; or
- v) a direct connector, being a participant that connects directly to eftpos infrastructure; or
- vi) an indirect connector, which may be a member or a sponsored participant; or
- vii) a clearing agent, which connects directly to eftpos infrastructure and processes transactions on behalf of other entities which are indirect connectors; or
- viii) a merchant service provider, which is an intermediary between a merchant and eftpos infrastructure; or

- ix) a token service provider, which is an intermediary which Issuers use to detokenize transactions for switching and processing.

Various eligibility criteria are set out for each of the above types of participant to ensure that the participants can meet standards reasonably required for the safe, stable and reliable operation of the eftpos system.

Other participants may access eftpos' services cost-effectively through merchant facilities; APIs and/or gateways, without being members of eftpos' 'single' ecosystem.

The process for admitting new participants is set out in the scheme rules.

## 12.2 Legal architecture of eftpos

The table below provides a high-level summary of the following five structures in the current legal architecture of eftpos being:

- (a) **Purpose:** the objects of the company;
- (b) **Ownership:** its ownership structure (eg type of company, types of membership which is not transferrable);
- (c) **Participation:** the participation structure (eg mutual or not, tiered or not) of the system operated by the company;
- (d) **Governance:** the governance structure (eg board and advisory committees, voting entitlements) of the company for its system; and
- (e) **Funding:** the funding structure (eg fees) and approach (eg self-sustaining) used by the company for its system.

Structure	Feature	eftpos
<b>Purpose</b>	Key objects of company	The primary objects of eftpos (as noted in its Constitution) are to: <ul style="list-style-type: none"> <li>(a) provide a forum for developing and determining the strategic, commercial and technical direction of the eftpos system;</li> <li>(b) manage the positioning of the eftpos system as a payment system; and</li> <li>(c) invest in infrastructure required for the development of the eftpos system.</li> </ul>
<b>Ownership</b>	Type of company	Public company limited by guarantee.
	Classes of shares/ membership	Issuer Class and Acquirer Class – equal rights.
	Voting rights of members	Voting rights of member proportional to its scheme volume or, in the case of a class meetings, its acquirer scheme volume and/or its issuer scheme volume.
	Parity between shareholders within the same governance band	No, see comments above in relation to scheme volume.

Structure	Feature	eftpos
	Dividends / distributions	A member may not share in any distribution of profits.
	Restrictions on transfer	Non-transferrable.
	Suspension or termination of membership	<p>A member ceases to be a member on:</p> <ul style="list-style-type: none"> <li>(a) becoming insolvent or subject to certain types of insolvency proceedings;</li> <li>(b) the directors terminating their membership if, in their reasonable opinion, the member no longer satisfies the relevant membership criteria and the member fails to demonstrate that it continues to satisfy those criteria; or</li> <li>(c) the member giving at least three months' notice and complying with any applicable requirements in the scheme rules.</li> </ul>
<b>Participation</b>	Connection with Ownership	Mutual.
	Banding	As noted above, voting rights depend on Acquirer Scheme Volume and/or Issuer Scheme Volume.
<b>Governance</b>	Board composition	<ul style="list-style-type: none"> <li>(a) 3 independent directors, including the Chair of the Board;</li> <li>(b) 1 director appointed by each of the following: <ul style="list-style-type: none"> <li>(i) each corporate group which includes one or more members which has scheme volume of at least 5%;</li> <li>(ii) jointly by other members whose scheme volume is individually less than 5% which choose to aggregate their scheme volumes to a level in excess of 5%;</li> <li>(iii) collectively by other members not covered by (i) or (ii); and</li> </ul> </li> <li>(c) the CEO of eftpos.</li> </ul>
	Voting rights of directors	<p>Voting rights are proportionate to the scheme volume of the appointing member or members.</p> <p>Specifically:</p> <ul style="list-style-type: none"> <li>(a) each director may cast the number of votes which the member/ members who appointed the director are entitled</li> </ul>

Structure	Feature	eftpos
		<p>to cast on a poll at a general meeting.</p> <p>(b) each independent director may cast 5 votes;</p> <p>(c) the CEO may cast the number of votes allocated to them on appointment (but not more than 5 votes).</p>
	Relevant committees	<p>(a) Finance &amp; Financial Audit Committee;</p> <p>(b) Risk &amp; Internal Audit Committee;</p> <p>(c) Remuneration &amp; Nominations Committee; and</p> <p>(d) Rebate &amp; Pricing Committee.</p>
<b>Funding</b>	Approach	Operates the eftpos system on a commercial basis. Issuers receive interchange fees (except for cashout transactions when interchange flows to Acquirers) and are net recipients of values in the eftpos system. In addition to interchange receipts, rebates are made available to both issuers and acquirers that support eftpos.
	Share subscriptions / membership fee	A fee is payable on making an application to become a member, in an amount determined by the Board by ordinary resolution from time to time (currently \$20,000).
	Fees	Members must pay such other fees and charges as are prescribed under the scheme rules from time to time.
	Member's liability	Liability to contribute on a winding up of eftpos is limited to \$10,000 per member.

### 12.3 eftpos system

The eftpos system was launched in Australia in the 1980s, introducing a fast, simple and secure card-based payment system, which, at that time, was rapidly embraced by both shoppers and merchants.

There are two types of debit card systems in Australia: one type is operated by eftpos and the other type is operated by the two ICS (MasterCard and Visa).

Both types of systems allow cardholders to make payments to merchants from a deposit account and, for eftpos, to withdraw cash at the merchant. Debit/ATM cards are issued by financial institutions typically as part of a deposit account.

74% of these cards are DNDC, which provide – through a single card – access to the cardholder's funds via the eftpos system as well as through the ICS, at POS, for swiped or dipped card transactions, online as well through a number of gateways and acquirers and in-app. At POS, the system utilised is determined by whether the 'cheque', 'savings' or 'credit' button is pressed at the terminal: in

the first two cases, the transaction is processed through the eftpos system and in the third, through the relevant international scheme.<sup>64</sup>

When a card is tapped at a terminal (ie contactless), the transaction travels through the ICS rails, unless the merchant routes the transaction to the eftpos system using LCR.

This is due to the RBA allowing the ICS first priority for their application on the card's chip in 2013 as contactless payments were only available for the ICS at that time. Since eftpos contactless has been enabled, the RBA has strongly encouraged LCR to enable merchants to select the cheapest option.<sup>65</sup>

For mobile payments, the selection of the card and network is usually made by issuers selecting the scheme to provision for consumers to load functionality.

26% of debit cards in issue in Australia are eftpos only proprietary cards that do not have Visa or Mastercard also present.

## 12.4 eftpos' services

### (a) Tap&Pay

eftpos Tap&Pay can be used for everyday purchases up to \$100 (tap and pay) and for everyday purchases over \$100 (tap and PIN). eftpos Tap&Pay provides customers with the advantage of simplicity and speed at the checkout, and greater security with EMV Chip cards.<sup>66</sup>

### (b) eftpos on mobile

eftpos on mobile allows customers to make eftpos payments on a range of mobile handsets, using various technology solutions. For example, eftpos is available on Apple Pay for cardholders from selected Banks and Financial Institutions.

Tokenised eftpos is also available for Samsung Pay and Google Pay.

### (c) Cash Out

Cash Out is also available if customers insert their eftpos-enabled card, or tap their eftpos-enabled card or mobile, at a large range of participating merchants at the checkout (or swipe or dip their cards) and through ATMs; and

### (d) eCommerce

eCommerce is now enabled through eftpos with more than 34 issuers with more to follow in the remainder of FY21.

### (e) Data subscription services

Loyalty awards for eftpos transactions is the first use case for eftpos' data subscription services utilising the volume of transaction data that eftpos has accumulated.

<sup>64</sup> Please see RBA, 'The Regulatory Framework for the eftpos System: Final Reforms and Regulation Impact Statement', November 2012 – annexed as **Annexure 9**.

<sup>65</sup> <https://www.rba.gov.au/speeches/2017/sp-so-2017-12-13.html>

<sup>66</sup> Please see <https://www.eftposaustralia.com.au/your-eftpos/#tappay>.



**(f) Digital Identity**

Most recently, eftpos has developed a digital identity broker solution which is in pilot with Scope Global and in discussion with government agencies.

**(g) Beem It**

On 2 November 2020, eftpos purchased 100% of the shares of Digital Wallet Pty Ltd, trading as Beem It. Beem It is a lifestyle app, initially enabling peer to peer payments for use cases such as restaurant bill splitting but recently expanded to include other bill splitting use cases (in conjunction with BPAY), gift card enablement and loyalty transactions.

**(h) Deposit & Withdrawal**

On 9 February 2021, eftpos went live with its Deposit & Withdrawal message set with Beem It which was the first use case and allows withdrawal of funds from a deposit account and deposit of funds to another deposit account and can be used for a variety of use cases including peer to peer transfers, third party payment initiated withdrawals, insurance payouts, payroll disbursement, rebates including medical and other government rebates, loyalty cashback, wallet funding, gift card loading and newsagency lottery payouts and ATM deposits.

**12.5 eftpos' website**

For more information about eftpos, please refer to its website at: <https://www.eftposaustralia.com.au/>.

**12.6 Designation**

As considered in **Schedule 4 – Regulation by the RBA and PSB** below, the RBA has the power under the *Payment Systems (Regulation) Act 1998* (Cth) relevantly, to:

- (a) designate a payment system as being subject to regulation if it considers that such designation is in the public interest;<sup>67</sup> and
- (b) set standards for designated payment systems if it considers that determining the standards is in the public interest.

In determining, for the purposes of that Act, if particular action is or would be in, or contrary to, the public interest, the RBA is to have regard to the desirability of payment systems: (a) being (in its opinion): (i) financially safe for use by participants; and (ii) efficient; and (iii) competitive; and (b) not (in its opinion) materially causing or contributing to increased risk to the financial system. The RBA may have regard to other matters that it considers are relevant but is not required to do so.

Each of the debit card system<sup>68</sup> and prepaid card system<sup>69</sup> operated by eftpos under the scheme rules are designated as payment systems, and the following standards apply in respect of each of them.

<sup>67</sup> Please see RBA, Designation No. 1 of 2012 under the *Payment Systems (Regulation) Act 1998* (Cth), 12 June 2012 – annexed as **Annexure 10**.

<sup>68</sup> Please see RBA, Designation No. 1 of 2012 under the *Payment Systems (Regulation) Act 1998* (Cth), 12 June 2012 – annexed as **Annexure 10**.

<sup>69</sup> Please RBA, Designation No. 3 of 2015 under the *Payment Systems (Regulation) Act 1998* (Cth), 15 October 2015 – annexed as **Annexure 11**.

**Standard No 2 of 2016, as amended<sup>70</sup>**

The stated objective of this standard is to ensure that the setting of interchange fees and payments and other transfers of valuable consideration having an equivalent object or effect to interchange fees in each designated debit card scheme and prepaid card scheme is transparent and promotes efficiency and competition in the Australian payments system.

**Standard No 3 of 2017<sup>71</sup>**

The stated objective of this Standard is to promote efficiency and competition in the Australian payments system by providing for Scheme that require participants to give merchants the freedom to make a charge for accepting payment of a particular kind that reflects the cost to the merchant of accepting that payment type.

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## 13 NPPA

### 13.1 Description of NPPA

NPPA is an unlisted public company responsible for the management and operation of the NPP, Australia's instant payment platform for real-time bank transfers.

The NPP provides Australian businesses, government agencies and consumers with a fast, versatile, data-rich payments system for making payments, with the largest single payment to date being a transfer of \$19.8 billion. The NPP has been developed collaboratively by NPPA and 13 leading financial institutions, which collectively own the NPP.<sup>72</sup>

NPPA's registered office is at Level 9, 420 George Street, Sydney. As reported in NPPA's 2020 Annual Report, NPPA's sales revenue for the 2020 financial year was \$43.9 million, and its net profit was \$4 million. As at 1 December 2020, NPPA has 20 employees.

A copy of NPPA's 2020 Annual Report is annexed as **Annexure 14**.

### 13.2 Governance framework of the NPPA

#### (a) Overview

NPPA was established in August 2014 as a joint venture company to assume oversight and management of the development and operation of the NPP.

#### (b) Board

The NPPA Board was reconstituted<sup>73</sup> in December 2014 and comprises 13 directors. Three are independent directors, including the Chair of the

<sup>70</sup> Please see RBA, Standard No. 2 of 2016, the setting of interchange fees in the designated debit and prepaid card schemes and net payments to issuers as varied from 1 July 2019 – annexed as **Annexure 12**.

<sup>71</sup> Please see RBA, Designation No. 3 of 2016 under the *Payment Systems (Regulation) Act 1998* (Cth), scheme rules relating to merchant pricing for credit, debt and prepaid card transactions, 26 May 2016 – annexed as **Annexure 13**.

<sup>72</sup> Please see NPPA 2020 Annual Report – annexed as **Annexure 14**.

<sup>73</sup> The company operated under a *pro tem* board comprised of three directors between August 2014 and December 2014.

Board. ANZ, CBA, NAB and WBC each have a director on the Board. The RBA's Payments Settlements Department has one director and the remaining shareholders of NPPA elect four directors on the Board, who are currently representatives from Bendigo and Adelaide Bank, Cuscal, ING Australia and Macquarie Bank. The chief executive officer of NPPA, Adrian Lovney, also sits on the Board as a non-voting director.

- i) The different bands of shareholding are determined based on the funding / subscription that those members invest in the NPP. These are described more fully below.
- ii) Each director, except for the Chief Executive Officer, has one vote and decisions are passed by a 66% majority.

**(c) Regulations and procedures**

The NPP Regulations and NPP Procedures operate as a multi-lateral contract – a set of obligations among each participant and NPPA, and between participants.<sup>74</sup> In addition to the NPP Regulations and the NPP Procedures, other key documents include: the constitution regulating the operation of NPPA; and the Shareholders Agreement that establishes who is a participant / shareholder and the obligations that follow from this. Procedures and other technical specification documents provide further detail about how these obligations will be met.

**(d) Members**

The current members and shareholders of NPPA include the company's 13 founding members (ANZ; ASL; Bendigo and Adelaide Bank Limited; Citigroup Pty Ltd; CBA; Cuscal Limited; HSBC Bank Australia Limited, Indue Ltd; ING Bank (Australia) Limited; Macquarie Bank Limited; NAB; RBA; and WBC).

**(e) Participation criteria**

Participation in NPP is voluntary.

To the extent that participation may be regarded as being necessary for business reasons, the participation criteria are inclusive and conditions of participation are solely directed to protecting the efficiency and integrity of the system.

There are various levels of participation:

- i) NPP Participants, of which there are three types: Full Participant, Clearing Participant and Settlement Participant.
  - (A) Full Participants are those who are connected to the NPP Basic Infrastructure and authorised by the RBA to use the FSS for settlement of NPP payments.
  - (B) Clearing Participants are connected directly to the NPP Basic Infrastructure for the purpose of sending and receiving NPP payments and non-value messages. They have not been authorised by the RBA to use the FSS for settlement of NPP payments (and therefore use the services of another NPP Participant to settle their NPP Payments).

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<sup>74</sup> Please see Regulations for NPP Version 7.0, 20 May 2020 – annexed as **Annexure 17**.

- (C) Settlement Participants are not connected to the NPP Basic Infrastructure (and therefore use the services of another NPP Participant to clear their NPP Payments) but are authorised by the RBA to use the FSS for settlement of NPP payments.
- ii) Connected Institutions are institutions that are connected to the NPP Basic Infrastructure solely for the purpose of sending and receiving Non-Value Messages, and which, for the avoidance of doubt, may also be an Overlay Service Provider (described below). These are not 'NPP Participants' as defined in the NPP Regulations.
- iii) Overlay Service Providers – being those authorised by NPPA to provide an Overlay Service, which is a payment service or payment-related service using the NPP Basic Infrastructure, to be provided by the Overlay Service Provider to Overlay Service Subscribers. These are not 'NPP participants' as defined in the NPP Regulations.

Various eligibility criteria are set out for each of the above participants to ensure the participants can meet standards reasonably required for the safe operation of the NPP.

The process for admitting new participants is delegated by the NPPA Board to the NPP Governance Committee which is made up of the independent directors plus the Chief Executive Officer.

Participation as Full Participants or Clearing Participants is currently limited to ADIs (and the RBA) and those connecting directly to the NPP system. Settlement Participants (those using their own ESA<sup>75</sup> with the RBA to settle NPP transactions) are not required to be ADIs. Such companies also need to be a shareholder in NPPA. Directly connected Full Participants and Clearing Participants can sponsor other financial institutions and corporates that, for whatever reason, do not wish or are unable to connect directly to the system as 'Identified Institutions'; these do not have to be ADIs or shareholders in NPPA.

Participation as Connected Institutions and Overlay Service Providers does not require the applicant to be an ADI or be a shareholder in NPPA.

### 13.3 Legal architecture of NPPA

The table below provides a high-level summary of the following five structures in the current legal architecture of NPPA being:

- (a) **Purpose:** the objects of the company;
- (b) **Ownership:** its ownership structure (eg type of company, types of shareholding and transferability);
- (c) **Participation:** the participation structure (eg, mutual or not, tiered or not) of the system operated by the company;
- (d) **Governance:** the governance structure (eg, board and advisory committees, voting entitlements) of the company for its system; and

<sup>75</sup> ESAs are the means by which providers of payments services settle obligations that have accrued in the clearing process.

- (e) **Funding:** the funding structure (eg, share subscriptions, fees) and approach (eg self-sustaining or profit maximising) used by the company for its system.

Structure	Feature	NPPA
<b>Purpose</b>	Key objects of company	<p>NPPA's objectives (as noted in its Constitution) include establishing and operating the NPP in a manner that promotes the public interest by:</p> <ul style="list-style-type: none"> <li>(a) ensuring the safe, reliable and efficient operation of the NPP;</li> <li>(b) facilitating fair access to the NPP as a mutually owned utility infrastructure; and</li> <li>(c) ensuring ongoing investment in the NPP to meet the changing needs of financial institutions and users of the Australian payments system.</li> </ul>
<b>Ownership</b>	Type of company	Public company limited by shares.
	Classes of shares/ membership	<p>Redeemable preference shares.</p> <p>See comments below re banding.</p>
	Voting rights of members	One vote per share.
	Parity between shareholders within the same governance band	<p>By requiring all participants of the same type in the same band to subscribe for the same number of shares, parity is maintained between all participants of the same type in the same band for:</p> <ul style="list-style-type: none"> <li>(a) capital calls; and</li> <li>(b) voting rights, including to appoint directors.</li> </ul>
	Dividends / distributions	Dividends determined by the Board having regard to, amongst other things, the aggregate equity funding of that shareholder.
	Restrictions on transfer	Non-transferable, other than to a related body corporate of the member.
	Redemption of shares	<p>NPPA must redeem:</p> <ul style="list-style-type: none"> <li>(a) some or all of the shares held by a holder, on their request; or</li> <li>(b) all of the shares held by a holder if the holder becomes insolvent, or alternatively buy-back and cancel those shares,</li> </ul> <p>for the redemption amount (or buy-back price) of A\$0.01 per share.</p> <p>Subject to the Corporations Act, NPPA may apply the capital contributions of new joiners to redeem the shares of founding members during</p>

Structure	Feature	NPPA
		the Joining Period which expires on 31 December 2022.
	Connection with Ownership	Mutual
	Banding	<p>The number of shares that are required to be subscribed for by a prospective participant depends on its size, and is determined by reference to total resident assets:</p> <p>(a) High Band: assets more than \$100b;</p> <p>(b) Medium Band: assets between \$10b and \$100b; and</p> <p>(c) Low Band: assets below \$10b.</p> <p>Full and Clearing Participants in the same band are required to subscribe for the same number of shares. Settlement Participants are required to subscribe for half the number of shares that are otherwise required as a Full/Clearing participant.</p> <p>See comments above regarding parity for participants of same type in same band.</p>
	Board composition	<p>3 independent directors, including the Chair of the Board;</p> <p>1 representative nominated by each of the High Band shareholders;</p> <p>4 representatives elected from among the Low and Medium Band shareholders; and</p> <p>1 director representing the RBA.</p> <p>The CEO of NPPA also sits on the Board as a non-voting director.</p>
	Voting rights of directors	Voting rights of directors are equal.
	Relevant committees	<p>Audit Finance and Risk Committee</p> <p>People and Culture Committee</p> <p>Strategy Committee</p> <p>NPP Governance Committee</p> <p>The NPP Governance Committee, comprising the independent directors and the chief executive officer, assists the Board in fulfilling its system access and governance, and oversees the compliance of NPP Participants and other parties with NPP requirements and obligations.</p>
	Approach	Economically self-sustaining (as opposed to profit-maximising).

Structure	Feature	NPPA
	Share subscriptions / membership fee	<p>Full Participants, Settlement Participants and Clearing Participants in the NPP are required to be shareholders in NPPA.</p> <p>Included in the cost to subscribe for the shares is the hardware and software componentry required to connect via an NPP payment gateway. Settlement Participants (who have no connection to the NPP and therefore no componentry) in any particular band subscribe for half the number of shares held by other shareholders in that band.</p> <p>The issue price of the shares issued from 1 January 2023 steps-down annually until 1 January 2028, such that by 1 January 2028, the issue price will be 75% lower than the current issue price. Partly paid shares may be issued, to enable payment for shares to be made in four equal instalments over two years. Participants that subscribe for partly paid shares are entitled to exercise all the voting and governance rights attaching to them.</p>
	Fees	Aims to recover operating costs based on a wholesale unit transaction cost which is charged to NPP Participants.
	Member's liability	Limited to any unpaid share capital.

### 13.4 NPP project

Obligations between financial institutions arising from cheque, card and DE payments settle on a deferred basis periodically throughout the day in aggregated batches in the RITS (Australia's RTGS). The time required for institutions to process these types of payments, and for settlement to occur, means that there is a delay in the funds being made available to the recipient. This can take between a few hours and a day in the case of DE transactions and can be as long as a few days for cheques. Weekends and public holidays can extend these timeframes.<sup>76</sup>

The NPP was developed in response to a review of the Australian payments system by the RBA's Payments System Board in 2012, which identified a number of specific gaps in the payments system that it anticipated would become increasingly problematic in the years to come.<sup>77</sup> This review set out an initial set of five strategic objectives for the Australian payments system:

- (a) Same-day settlement of all DE payments;
- (b) The ability to make real-time retail payments;
- (c) The ability to make and receive low-value payments (DE, RTP and crediting of card payment receipts) outside normal banking hours;

<sup>76</sup> Please see RBA, 'The New Payments Platform and Fast Settlement Service', 20 September 2018 – annexed as **Annexure 18**.

<sup>77</sup> Please see RBA, 'NPP Functionality and Access Consultation: Conclusions Paper', June 2019 – annexed as **Annexure 19**.

- (d) The ability to send more complete remittance information with payments; and
- (e) The ability to address payments in a relatively simple way.<sup>78</sup>

This prompted the AusPayNet (previously APCA) to bring together industry representatives to form the RTPC. The RTPC submitted a proposal based on findings and key learnings from other international payments systems that were evolving to support real-time payments.

This proposal recommended a 'layered architecture' for payments clearing and settlement, that could offer a wide range of new real-time payment services to consumers, businesses and government agencies.

The development of the NPP involved extensive cooperation between participating ADIs to build the capability to send and receive individual payment messages between themselves, as well as settlement instructions to the RBA's FSS, in real time. Additionally, the project required ADIs to upgrade their internal systems to allow posting of payments to customer accounts within a few seconds. The enhanced capability of the NPP also meant that participating financial institutions initiated large internal projects to upgrade their payments processing and monitoring systems, as well as customer-facing internet banking systems and mobile device applications.<sup>79</sup>

The NPP went live in November 2017, supporting payments first between a small number of employees working at the initial participating financial institutions. These institutions commenced rolling out services to their customers on 13 February 2018.<sup>80</sup>

The RBA regards the NPP as "an important piece of payments system infrastructure that will pave the way for further innovation in the payments system."<sup>81</sup>

### 13.5 NPP Basic Infrastructure

The NPP is a distributed system that has two main components: the NPP Basic Infrastructure and the FSS.

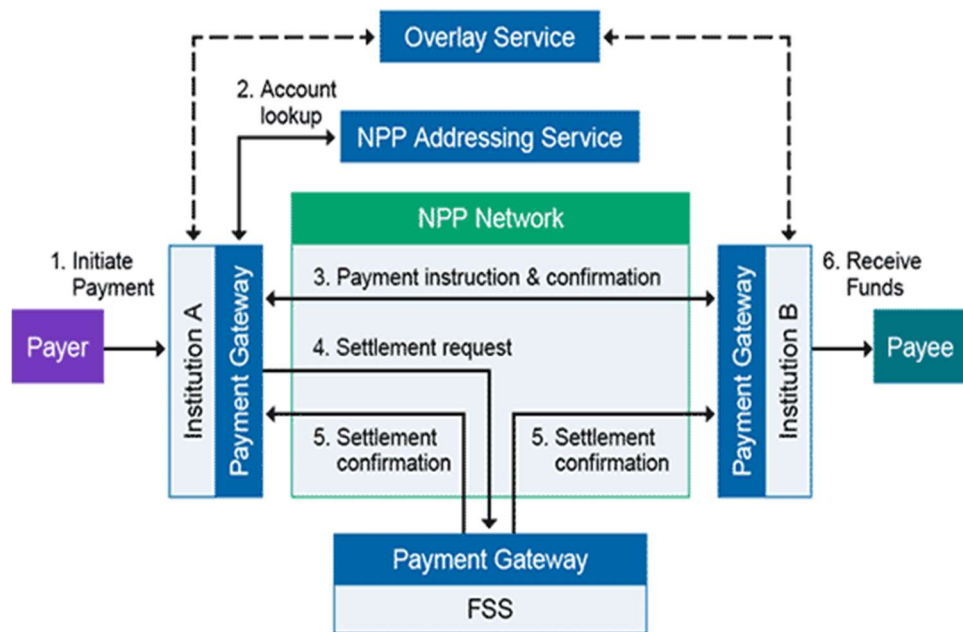
<sup>78</sup> Please see RBA, Strategic Review of Innovation in the Payments System: Conclusions, 2012 – annexed as **Annexure 20**.

<sup>79</sup> Please see RBA, 'The New Payments Platform and Fast Settlement Service', 20 September 2018 – annexed as **Annexure 18**.

<sup>80</sup> Please see <https://nppa.com.au/the-company>.

<sup>81</sup> Please see Michele Bullock, Speech – 'Fast Payments in Australia', 13 March 2018 – annexed as **Annexure 21**.



Exhibit 3: NPP Basic Infrastructure and Payment Processing<sup>82</sup>

The NPP Basic Infrastructure is the industry utility owned and operated by NPPA, which provides the core capabilities required for fast and flexible payment messaging. It uses the ISO 20022 international messaging standard, which is a global standard for financial messaging that is flexible and extensible and, therefore, enables the sending of richer and more complete remittance information with a payment.<sup>83</sup>

The NPP Basic Infrastructure is operated by SWIFT under a confidential contract with NPPA and includes three key components:

- (a) a dedicated new domestic SWIFT network, that provides fast connectivity and facilitates payment message flows between infrastructure components, including clearing messages between participating ADIs and settlement messages between those ADIs and the FSS;
- (b) decentralised switching via payment gateways that route messages across the network. These payment gateways are located within participating ADIs' data centres and each ADI is directly responsible for the speed and capacity of their infrastructure. ADIs are also responsible for their own fraud and financial crime monitoring; and
- (c) the addressing service, which enables customers, through their financial institution, to link their transaction account to a simple unique identifier called a PayID, such as an email address, a phone number or an Australian Business Number. This service provides confirmation of the payee's name when a PayID is entered, which reduces the risk of misdirecting a payment compared with using a BSB and account number to address a payment.

<sup>82</sup> Please see RBA, 'The New Payments Platform and Fast Settlement Service', 20 September 2018 – annexed as **Annexure 18**.

<sup>83</sup> Please see RBA, 'The New Payments Platform and Fast Settlement Service', 20 September 2018 – annexed as **Annexure 18**.

The NPP Basic Infrastructure also supports the independent development of 'overlay' services to offer innovative payment services to end-users.

### 13.6 FSS

The FSS was developed by the RBA in parallel with the NPP. The FSS is the infrastructure that provides for settlement of NPP transactions between ADIs on a 24/7 basis across their ESA at the RBA. When a settlement request for a payment is received, the FSS tests the payment against technical criteria and for funds availability in the relevant ESA. If this testing is successful, settlement will occur irrevocably and unconditionally in real time.<sup>84</sup>

The real-time settlement of NPP payments in central bank funds allows institutions to make funds available in recipients' accounts instantaneously without giving rise to settlement or credit risk.<sup>85</sup>

### 13.7 Overlay services

Overlay services are commercial payment services that use the NPP Basic Infrastructure's capabilities to send payment messages quickly, address payments using PayIDs and send detailed information with payments.

The overlay services framework allows for competition and innovation in the provision of payment services. The corollary of this is that not all NPP participants need be members of overlay services.

Overlay services can range from simple arrangements that involve application of a specific rule book/standards or more complex payment solutions that implement new message flows or payment types between participants. The framework also allows overlay services to be offered without all participants joining, which means they can be launched more quickly and creates the potential for a variety of industry-wide or more specialised payment solutions to be developed.

The first overlay service, Osko by BPAY, is a payment option available via participating ADIs' digital banking channels on a 24/7 basis that enables funds and information to be rapidly transferred and made available to recipients. This service can be used by a range of third parties such as corporates and FinTechs to send and receive payments and supporting data in real time. The capabilities of this overlay may also be used as a component of new overlays designed for the needs of particular customer segments.<sup>86</sup>

### 13.8 How are NPP payments processed?

The NPP allows customers of a participating ADI to make payments from their account to a customer of another participating ADI with immediate funds availability to the payee. From the perspective of the customers, the process is simple and takes only moments. There are a number of confirmation and clearing steps (which involve the payer ADI confirming its customer has the required funds and the payee ADI confirming that the recipient account exists and is able to receive NPP payments) and settlement steps (which involve the transfer of funds between the ADIs) that occur in quick succession, and within seconds, to make this happen:

<sup>84</sup> Please see RBA, 'The New Payments Platform and Fast Settlement Service', 20 September 2018 – annexed as **Annexure 18**.

<sup>85</sup> Please see RBA, 'The New Payments Platform and Fast Settlement Service', 20 September 2018 – annexed as **Annexure 18**.

<sup>86</sup> Please see RBA, 'The New Payments Platform and Fast Settlement Service', 20 September 2018 – annexed as **Annexure 18**.

- (a) A customer (the payer) initiates a payment through a banking channel, such as an on-line banking portal or mobile phone banking application. The customer could also include structured remittance data (an End to End ID or Reference) or unstructured remittance data (up to 280 characters of text) with the payment.
- (b) If the payer has chosen to use a PayID to identify the recipient of the funds, the payer's institution will send an enquiry message to the addressing service to find the payee's BSB and account number linked to the PayID. The name associated with the PayID is returned to the payer for confirmation, which helps to reduce the occurrence of misdirected payments and fraud.
- (c) The payer institution then sends a message with all the relevant payment details and payer-provided remittance data, subject to any overlay service requirements, to the payee's institution using its payment gateway. The payee's institution clears the payment by checking the payment details and sends a response back to the payer's institution via its payment gateway, confirming it can credit the payee.
- (d) With clearing of the payment complete, the payer institution's payment gateway automatically initiates settlement by sending a settlement request to the FSS, which tests that the payer institution has sufficient credit funds, and then transfers value between the two institutions' ESAs in real time by simultaneously debiting the ESA of the payer institution and crediting the ESA of the payee institution.
- (e) The FSS then returns a settlement confirmation to both institutions indicating that settlement has occurred.
- (f) Once the settlement confirmation has been received, the payee ADI makes the funds available to its payee customer.

### 13.9 How NPP payments are settled by the FSS

Individual NPP payments are settled with finality by simultaneously crediting and debiting ESAs held at the RBA. Although the FSS uses some of the existing RITS infrastructure (such as the user interface), NPP payments are settled by the FSS independent of other types of payments submitted to RITS (which are settled by the RITS System Queue). While RITS members use a single ESA to settle payments, institutions divide their ESA funds between an FSS Allocation<sup>87</sup> and a RITS Allocation.<sup>88</sup> NPP payments are settled using funds available in the FSS Allocation only.

Each settlement request relating to an NPP payment is validated and tested by the FSS against technical criteria and for the availability of sufficient funds in the payer institution's FSS Allocation:

- (a) If testing is successful, settlement occurs. The payee institution's FSS Allocation is credited simultaneously with the debiting of the payer institution's FSS Allocation and a settlement confirmation is sent to both institutions.
- (b) If a settlement request fails, due to insufficient funds or any other validation error, the NPP payment is rejected, settlement is not completed and a rejection message is returned to the institutions. In

<sup>87</sup> The portion of the RITS Member's Exchange Settlement Funds balance available to the FSS for settlement of NPP payments.

<sup>88</sup> The portion of the RITS Member's Exchange Settlement Funds balance available to RITS for RTGS settlements during RITS opening hours.

order to process and settle payments quickly, it is also not possible to recall NPP payments, since the FSS settles or rejects payments very quickly.

### 13.10 Participation and connectivity

More than 100 banks, credit unions, building societies and FinTechs have connected to the NPP (either directly or indirectly) to provide fast payment services to their customers.<sup>89</sup>

### 13.11 NPP Roadmap: future native capability development

In October 2019, NPPA published its inaugural capability development roadmap which outlined the future capability development planned for the platform. The roadmap had six areas of focus:

- (a) development of NPP message standards to utilise the NPP's structured data capabilities;
- (b) development of a MPS – which includes a Mandate Management Service as a separate and discrete component of the Basic Infrastructure – to support third party payment initiation, including recurring and 'debit-like' payments on the NPP;
- (c) implementation of payment initiation capability across the platform (Basic Payment Initiation Service);
- (d) implementation of an optional service to support the domestic leg of an inbound cross-border payment;
- (e) supporting the use of QR Codes on the NPP; and
- (f) extension of the NPP API framework and an upgrade of the API sandbox.<sup>90</sup>

In April 2020 and October 2020, NPPA published updates to the roadmap.<sup>91</sup>

In extending the NPP Roadmap October 2020, NPPA has taken into consideration broader industry changes underway, including the migration of the High Value Clearing Stream (HVCS) to ISO 20022 (sponsored by the RBA) and SWIFT's message type migration to ISO 20022. Many NPP participating financial institutions have their own roadmaps and priorities in terms of capability that they are planning on making available to their customers, such as APIs or the ability to process bulk payment files via the NPP. Further, as a result of COVID-19, financial institutions, like most organisations, have had to redeploy resources and funds to focus on specific activities in response to the pandemic.

The NPP Roadmap October 2020 continues the capability commitments contained in the NPP Roadmap October 2019 and incorporates some additional activity which is primarily focused on reducing regulatory risk and helping address financial crime in relation to international payments. This capability will be delivered as an NPP business service.

<sup>89</sup> Please see NPP, 'Update on the New Payments Platform Roadmap', 30 April 2020 – annexed as **Annexure 22**.

<sup>90</sup> Please see NPP, 'New Payments Platform Roadmap 2019', 28 October 2019 – annexed as **Annexure 23**.

<sup>91</sup> Please see NPP, 'Update on the New Payments Platform Roadmap', 30 April 2020 – annexed as **Annexure 22**.

The NPP Roadmap October 2020 aims to support inbound international payments via the mandatory international payments business service by the end of 2022.

### 13.12 NPPA's website

For more information about NPPA, please refer to its website at: <https://nppa.com.au/>.

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## 14 The counterfactual scenario

### 14.1 Expert reports

Dr Geoff Edwards and Mr Lance Sinclair Blockley have provided an expert economic report and an industry expert report, respectively, which set out their expert assessments of the likely counterfactual scenario. Those reports are annexed to this Application.

### 14.2 Context

Australia's payment schemes currently lag behind the ICS, Big Tech and FinTech in terms of technological capabilities and service delivery.

The Australian payments landscape is rapidly evolving due to technological developments and new non-traditional entrants. Co-ordinated investment in payments services is critical for Australia's payment schemes to remain competitively relevant in the future.

Like their counterparts in other countries, Australian payments schemes rely on the broad support of financial institutions and retailers. It is necessary for financial institutions and retailers to make substantial investments in their IT systems and capabilities to adopt the schemes' respective new payments services and future payments innovations.

For a new payments service to be successful, it must achieve a network effect in a timely way. It is impossible to achieve a network effect in a timely way if not all financial institutions and retailers make the necessary investments at the same time.

The pools of discretionary and human capital available to be allocated to adopting new payments services and future payments innovations is limited and is subject to conflicting demands.

The domestic payment schemes are limited in their ability to compete on a 'like for like' basis with the significantly greater resources and economies of scale of the ICS, who have substantial research and development teams and have tended to launch innovations many years before they have been offered by any of the Australian payments schemes.

### 14.3 Some form of amalgamation would be likely

Based on the content of the confidential statements which accompany this Application, the counterfactual scenario is likely to involve a lesser form of amalgamation such as a combination of two schemes or a combination of one scheme and a part of another scheme or a contractual arrangement between a scheme and one of its closest competitors.

[Confidential to the Parties].

[Confidential to BPAY].<sup>92</sup>

#### 14.4 The lack of a co-ordinated investment roadmap will cause the gap to grow

In the future without the Conduct, with a lesser form of amalgamation, the lack of a co-ordinated investment roadmap will cause the gap to grow between the technological capabilities and service delivery of Australia's domestic retail payments systems and ICS, Big Tech and FinTech, to the detriment of Australians. The Australian payments schemes will be less able to effectively challenge their global competitors and less able to successfully bring payments innovations to market.

#### 14.5 Australia's payment schemes will not be able to keep pace with technological developments and will be a weak constraint on the ICS and global technology companies

The Australian payments industry will not be set up to efficiently deliver the next wave of functionality due to its:

- (a) Fragmented ownership leading to inefficiencies and slow adoption of innovations;
- (b) Lack of a coordinated roadmap, investment requests for adoption of initiatives and overlapping innovation proposals leading to inefficiencies, including stranded assets;
- (c) Lack of scale for research and development, leading to loss of competitiveness against global companies;
- (d) Low cost positioning;
- (e) Long term incentive agreements with banks; and
- (f) Reliance by banks on legacy technology leading to loss of competitiveness for the domestic payment systems.

#### 14.6 BPAY Opco, eftpos and NPPA will require significant further investment by a critical mass of financial institutions

Each of the three domestic payment schemes has made, or has planned, investments in central capabilities to support product rollout. However, this is only a small fraction of the total investment required for that functionality to have utility. Two key factors are relevant:

- (a) considerable further investment 'at the edges' by financial institutions will be required to enable these capabilities in banks' technology environments. Components that require change commonly include core banking environments, back office operations and processes, customer servicing interfaces (such as call centres, branches), investigation and error processing, and mobile and internet banking channels. Alongside build costs to support these new investments, additional funds are required on an ongoing basis to run, maintain, and ensure ongoing compliance; and
- (b) For a sufficient network effect of payers and/or payees to exist, the capability will need to be made available by a critical mass of financial institutions before it can be used effectively. This might occur

<sup>92</sup> [Confidential to BPAY].

organically, although many financial institutions will wait to see whether others commit before doing so themselves. For these reasons, a combination of either financial incentives and/or mandatory compliance processes will be deployed by scheme operators to drive deployment and take-up, with varying degrees of success.

This multiplier effect of inefficient investment on industry spend is demonstrated in **Confidential Exhibit 8** below:

**Confidential Exhibit 8: Multiplier effect of duplicated innovation investment on industry spend to connect, run and deploy innovations**

[Confidential to the Parties]

Some practical illustrations of this are as follows:

- (a) [Confidential to the Parties]. The total costs to deploy the NPP functionality across participating banks has been estimated at \$1 billion.
- (b) [Confidential to the Parties].

While the payment schemes have each budgeted for future capabilities in their respective roadmaps, this investment by the companies represents only part of the total overall investment required for their proposed developments to be usable. A substantial investment will also be required by financial institutions. Further, investment is required by a minimum number of financial institutions in order for the capability to be successful and for End Users to see the benefits.

**14.7 Available resources to be allocated by banks and payments companies on new capability will continue to be limited**

The various shareholders and members of the three payments schemes will not have or will not be able to allocate sufficient resources to separately invest in changes to their systems needed to offer multiple versions of the same service to their customers.

It will continue to be the case that allocating such resources will not create value for their customer or shareholders.

**14.8 One likely outcome is that some overlapping future capabilities will be delayed, not built, or will not be successful because of insufficient network effects**

The likely outcome in the counterfactual scenario is that the implementation of these overlapping future capabilities will be delayed or never built. Alternatively, if they are built, they are likely to be unsuccessful either because:

- (a) they do not reach the required critical mass in sufficient time and are therefore abandoned; or
- (b) the ICS or other international players have beaten them to market.

This is because of the following factors:

- (a) Each of BPAY Opco's, eftpos' and NPPA's management teams and Boards of Directors are broadly bound to act in the interests of the company that they lead. This will cause them to pursue strategies to grow utility and transaction volume by responding to opportunities that they see in the marketplace and relative to gaps in their current product offerings relative to their competitors.

- (b) These propositions will be developed independently of each other.
- (c) This will continue to result in an inability to prioritise and develop an industry wide roadmap to more effectively sequence capability development and more efficiently deploy capital. While the central investment cost for these capabilities is comparatively manageable, the total cost of implementation “at the edges”, and by a critical mass of financial institutions is significant. It is conceivable that each organisation will pursue, and even budget for the implementation of central capability in parallel. However, financial institutions faced with competing demands for similar capability from multiple schemes will not build all of them and will be forced to choose among multiple proposals for similar capabilities.
- (d) For BPAY, eftpos and NPPA, competing demands will result in bank indecision and lack of progress resulting in lengthy delays, rather than constructive discussions about prioritisation and optimal investment decisions.
- (e) Similar or competing proposals will continue to create uncertainty about achieving the essential network effects and ensuring a critical mass of participating financial institutions necessary for a payment initiative to succeed (often offering similar functionality). The likely end-result will be either to:
  - i) delay making a decision about which proposal to support until it is clear which solution is preferred by a critical mass of other financial institutions; or
  - ii) not to make a decision at all, in which case no capability will be built.

#### **14.9 Another likely outcome is that domestic capability will falter to the benefit of global competitors**

The ICS will be not affected by similar challenges and will continue to have strategic relationship with domestic banks.

MasterCard and Visa will remain focused on extending and expanding their functionality, including into a number of the elements being pursued separately by NPPA, eftpos, and BPAY:

- (a) Paying for a purchase in store by using a mobile phone (P2B);
- (b) Transferring money between accounts (P2P, P2B, B2P, B2B);
- (c) Making a subscription payment (P2P, P2B, B2P, B2B);
- (d) Paying for a purchase online (P2B); and
- (e) Verifying customer identity online (P2B, B2B).

The ICS will continue to put in place incentives or mandatory compliance regimes to get the banks to continue to invest in upgrading their capabilities or extending into new capabilities.

Big Tech and Fintech companies will continue to out-invest and out-innovate the Australian payment schemes.



## 15 Counterfactual scenario – BPAY

BPAY Holdco completed an extensive 5 year strategic roadmap in late 2019.

Absent the conduct, BPAY will continue to operate and be governed by its 5 year strategic roadmap. However, the industry challenges of coordination will remain and need to be addressed. These two areas of focus are elaborated below.

### 15.1 Addressing the industry coordination challenges

BPAY has long been a strong advocate for improved industry coordination. Indeed, in BPAY’s submission to the RBA’s Review of Retail Payments Regulation, BPAY stated:<sup>93</sup>

*“BPAY Group’s perspective is that improved coordination leading to clarity on strategic agenda setting (the “what”) and implementation responsibility (the “how”) is a preferable and demonstrably more successful mechanism for enabling systemic innovation in the payments system than any consolidation. This approach is key to ensuring collaboration on infrastructure, whilst providing opportunity for competition in the provision of commercial services.”*

Furthermore, BPAY suggested that the approach taken through the RBA’s Strategic Review of Innovation provided a framework for how coordination could be successful:<sup>94</sup>

*“In retrospect, the Strategic Review of Innovation process was successful because there was clarity in respect to roles for the RBA and the Real-Time Payments Committee (RTPC) which brought together industry participants. As well, what emerged from those discussions was a clear delineation between NPPA as infrastructure provider and BPAY Group as provider of the first overlays. We believe there is merit in considering how to best re-establish a similar framework going forward for future enhancements.”*

BPAY will remain intent on working with other industry participants to achieve the benefits of industry coordination, whether through the approach outlined above, or through alternative mechanisms such as an industry strategic planning process followed by competitive tendering by solution providers.

[Confidential to BPAY].<sup>95</sup>

### 15.2 Continuing BPAY’s growth strategy

BPAY Group’s strategy is two-fold:

- (a) enabling the BPAY Scheme to thrive through simplifying payments for members, consumers and businesses to maximise the effectiveness of existing payments solutions that remain in high demand; and
- (b) creating value by diversifying payments into planned non-payment activities.

<sup>93</sup> BPAY’s submission to the RBA’s Review of Retail Payments Regulation, 31 January 2020, page 3.

<sup>94</sup> BPAY’s submission to the RBA’s Review of Retail Payments Regulation, 31 January 2020, page 2.

<sup>95</sup> [Confidential to BPAY].

BPAY Group’s strategy is summarised in the diagram below:

## BPAY GROUP 2025 | vibrant & vital to our employees, customers and partners



As part of BPAY Group’s strategy:

- (a) BPAY Group’s payments initiatives are focused on enabling the BPAY Scheme to thrive. These include simplifying BPAY access and processes (e.g. through APIs), accelerating BPAY payment notifications, enabling third party payment initiation and implementing Osko services 2 and 3.
- (b) BPAY Group’s non-payment initiatives include [Confidential to BPAY], providing a single access point for debits, invoices and out-of-bank payments, and enabling integrated payments for businesses.

Absent the Conduct, BPAY will continue to operate and be governed by its 5 year strategic roadmap. BPAY Group may also consider potentially accelerating investment into new services or business lines. Near term priorities are [Confidential to BPAY], a centralised MPS send capability for merchants, and Sypht growth funding. Note that these are at present all likely outside of the proposed scope of the authorisation (and do not form part of the Conduct) and purpose of NewCo, and currently rely on resources, assets and capital from BPAY Group. They are, however, readily feasible should the Conduct not occur.

## 16 Counterfactual scenario – eftpos

### 16.1 Overview of eftpos’ counterfactual scenario

In 2019 eftpos consciously established a strategy to shift the eftpos business model and role to be broader, more centred in digital and far more diversified, reducing reliance on member support beyond the core message set capabilities and enhancing its ability to compete with ICS and Big Tech.

Strategy execution is well underway, evidenced by the range of new services planned and already introduced, as described in section 12 above. The success of that strategy is dependent on members implementing the technical roadmap. Financial incentives and mandates have proven to be effective in motivating member support to date with the bulk of the development work already complete.

The remaining execution of the roadmap is unlikely to place any prohibitive financial burden on the banks because eftpos is self-funded, low cost and

provides rebates to the banks to cover a significant portion of their implementation costs.

New revenue streams and eftpos only propositions enhance eftpos' economic viability in a less cash economy in areas such as digital identity, mobile wallets, eCommerce, ATM processing and cash out.

There is a range of evidence to support the proposition that debit card payments (in Australia as well as globally) will continue / expand their relevance in payments despite the changing landscape, and that eftpos is and will remain a strong competitor providing valuable price competition and a sustainable low cost routing solution at POS and in eCommerce.

Absent consolidation, eftpos would continue to execute its existing, well-defined strategy and roadmap which will see it increase its position and relevance in the evolving payments landscape in both the core scheme business and additional, complementary services.

## 16.2 eftpos' plans for growth and diversification

eftpos' strategy was informed by a number of key inputs, including:

- (a) a perception of slow support from members [Confidential to eftpos];
- (b) the global payment shifts to mobile, online, in app and cash reduction; and
- (c) the trend for domestic schemes to play a wider role as a core part of national infrastructure.

The strategy for eftpos was consciously established to create a sustainable business for the longer term and reduce reliance on members for eftpos' success, while adding being strategically placed at the centre of the digital economy for the benefit of members, their customer and Australia. eftpos considers that it is no longer a traditional cards payment scheme, and it is no longer a POS-only solution.

The key themes of the strategy are:

- (a) reposition and reengineer eftpos as a digital player with a focus on driving digital experiences;
- (b) continue to have strategic value for consumers and merchants;
- (c) continue to have strategic value for members;
- (d) create an agile, innovative, low-cost organisation;
- (e) diversification of transaction types that are driving sustained transaction growth;
- (f) diversification of revenue streams that access and create value around all payments, in addition to eftpos; and
- (g) reduce reliance on members whilst at the same time creating capabilities than can better meet their customers core needs.

## 16.3 [Confidential to eftpos]

[Confidential to eftpos]

**Confidential Exhibit 9: eftpos' actual and forecast transaction volume growth****[Confidential to eftpos]****Confidential Exhibit 10: Average cost of acceptance by merchant size****[Confidential to eftpos]****16.4 eftpos will increase its reach and relevance with diversified, complementary services, guided by its strategic roadmap**

The core eftpos business remains sustainable as network effect has already been achieved, eftpos functionality remains available on nearly 100% of cards on issue, including 36.5 million DNDCs, 12.6 million proprietary cards (including prepaid) and 8.9 million multi-network credit cards.

eftpos has already executed its diversification strategy in the following ways to support growth in transaction volumes:

- (a) Digital messages are now live for three of the Major Australian Banks and more than 34 smaller issuers, and use cases will continue to expand from low to higher risk transactions through 2021. These messages allow eftpos to access eCommerce transactions which now represent circa 15% of all retail debit transactions and growing faster than in-store transactions;
- (b) Deposits and Withdrawals are now live supporting real time A2A payments over cards rails adding a wide range of additional retail and non-retail use cases and will continue to be expanded during 2021 with one example being **[Confidential to eftpos]** targeting 58 million per annum potential deposit transactions. Other potential use cases include instant payroll and insurance payouts;
- (c) Continued growth in eftpos mobile transactions now that all Major Australian Banks offer the eftpos option. **[Confidential to eftpos]**;
- (d) Expansion of eftpos' existing role in processing ATM transactions as majors continue to outsource the management of their ATM fleets to independent operators demanding enhancements and expansion of ATM services; and
- (e) Cash out continues to be a point of difference from Visa and Mastercard with wide merchant access. While volumes have fallen during COVID they are rising again and remain a point of difference.

eftpos is diversifying its businesses and revenue streams in the following further ways which are not transaction-dependent.

- (a) Rolling out Beem It capability to support all card types and enable value adds and revenue on all these debit and credit card transactions. eftpos acquired Beem It in 2020. Beem It will become an alternative to Apple Pay and Google Pay for banks and allow them to maintain their customer relationship. **[Confidential to eftpos]**.
- (b) While the intent is for Beem It to be the dominant national wallet, as has been achieved in many overseas markets, the app is also a platform for delivery of experiences by merchants and eftpos.
- (c) Rolling out the connectID digital identity business which supports safe easy digital experiences including payments, not limited to eftpos

payments. connectID is in pilot and will be live with a range of partners including state governments [Confidential to eftpos]. This service may increase eftpos volumes through higher authorisation rates and access all transaction types.

- (d) [Confidential to eftpos]
- (e) Data services leveraging eftpos, the broadening of data eftpos accesses combined with utilising the API platform and engaging efficiently with FinTechs. The current engagement with Verrency for loyalty rewards is one example.
- (f) Offering distributed ledger technology with Hedera Hashgraph that is allows for greater scale and wider use cases than some other offerings in the market

## 16.5 Further implementation of eftpos' strategy will not place a financial burden on banks

eftpos is self-funded and does not seek investment from its members to develop innovations. Further, over the last three financials years to June 2020, issuers received a net financial benefit from participation in the eftpos payment system, reflected in the table below.

### Confidential Exhibit 11: Issuer net position from participation in eftpos payment system

#### [Confidential to eftpos]

While eftpos' members pay scheme fees and infrastructure fees to eftpos, eftpos refunds a portion of those scheme fees to members to fund developments that support eftpos. These are known as rebates or refunds. Issuers are the recipient of interchange fees paid by acquirers for each eftpos transaction (other than cash out, for which the interchange is reversed and payable by issuers to acquirers). Acquirers pass interchange and scheme fee costs on to merchants through the merchant service fees they charge and have also received fee rebates. They have also had a much lower change burden than issuers and receive revenue from cash out interchange, as well as lower fees for sustainable LCR implementation across POS and eCommerce.

While members have had to support the capability catch up required by eftpos (to be at functional parity with Visa and Mastercard) over the last few years, the future roadmap has limited demands on members.

- (a) Acquirers can comply with most remaining roadmap items by supporting the change in transaction flow to "switch to issuer" which is a relatively small project, consistent with current Visa and Mastercard capabilities.
- (b) Issuers already support the eftpos digital message set, therefore the remaining work to be done is not major. 3DS is delivered by an external vendor to issuers and eftpos is working with the external vendors. Fraud score enhancements are optional and require integration into existing bank tools if a member wishes to take advantage of the new service.
- (c) As has been the case over recent years, funding of work will continue to be largely paid for through fees rebates. [Confidential to eftpos]

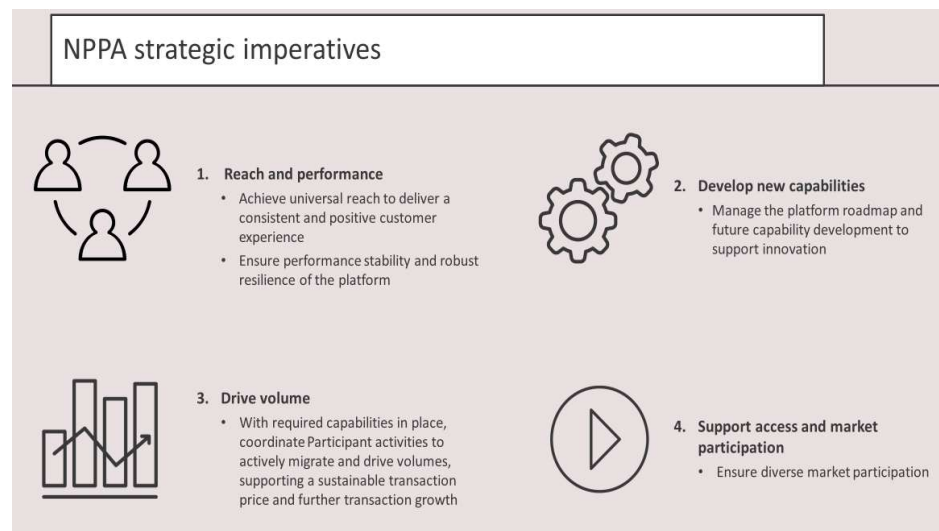
#### [Confidential to eftpos]

16.6 [Confidential to eftpos]  
[Confidential to eftpos]

## 17 Counterfactual scenario – NPPA

NPPA's strategy has remained the same since 2018 and is reflected in **Exhibit 12A** below:

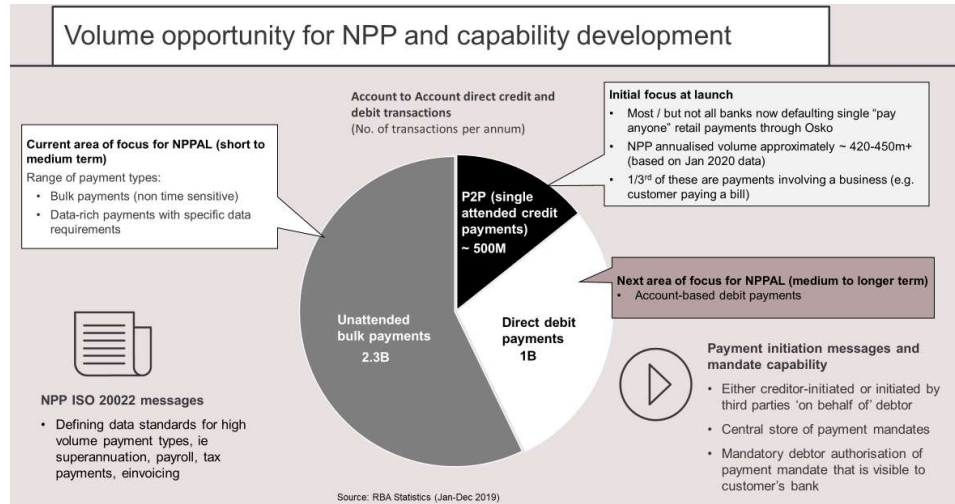
### Exhibit 12A: NPPA's strategic imperatives



NPPA's core focus will remain, as per its currently agreed strategy, on pursuing migration of volumes from the legacy BECS clearing stream to NPP. There are three key segments of focus:

- Single attended P2P and P2B payments have largely already migrated to the NPP, 80% of which are processed as Osko payments and the remaining as SCT between financial institutions but not sent via the Osko overlay service.
- NPPA has completed the work required at the central infrastructure level to process unattended payments which are largely sent by businesses as bulk files. Some of these will be processed as low data payload Single Credit Transfer messages, incorporating the original 18 characters of alphanumeric text originally contained in the originating BECS file, while others of these payments will be sent incorporating rich data in the corresponding Category Purpose Code open standard business services defined and published for superannuation, payroll, tax, and e-invoicing payments using the NPP.
- Finally, the MPS will enable third parties (either creditors like billers, or parties acting on behalf of the debtor or creditor, such as cloud-based accounting software platforms, payment service providers and FinTechs) to initiate "debit-like" payments from early 2022, within a payment arrangement which has been authorised by the account-holder. This capability was originally designed by NPPA participating financial institutions as an alternative to account-based direct debits currently processed in BECS, but the MPS will also support subscription, recurring, online, and in-app payments which are currently processed exclusively via the ICS.

Exhibit 13A: Volume for NPP and capability development



NPPA operates on a non-profit maximising utility basis. Its cost base is largely fixed, regardless of volumes processed. It is projected to recover a largely flat revenue profile in order to meet those fixed costs, as well as fund ongoing investment in the platform’s central capabilities, which are expected to be relatively minimal.

Accordingly, NPPA expects that its “wholesale transaction costs” (eg its average transaction cost, which will be reflected in its per transaction fee) will continue to decline as NPP volumes grow as demonstrated in **Confidential Exhibit 14** below, including as a result of migrating BECS volumes to the NPP (which will occur irrespective of the Conduct).

**Confidential Exhibit 14: NPPA’s wholesale transaction costs**

[Confidential to NPPA]

**18 Australia’s payments industry**

Mr Lance Sinclair Blockley has provided an industry expert report which describes Australia’s payments industry in detail. Mr Blockley’s confidential report is annexed to this Application at **Confidential Annexure 47**.

The Australian payments system refers to the collection of laws, regulations, protocols and infrastructure that governs and administers the way that payments in all forms are sent and received.

It includes the payment instruments – cash, cards, cheques and electronic funds transfers which customers use to make payments – and the usually unseen arrangements that ensure that funds move from accounts at one financial institution to another.<sup>96</sup>

**18.1 Cash payments**

The use of cash as a payment method in Australia dates back to the 18<sup>th</sup> century and remains a popular, albeit declining, option today, accounting for 27% of all transactions in 2019. Consumers most commonly withdraw cash is through

<sup>96</sup> Please see <https://www.rba.gov.au/payments-and-infrastructure/payments-system.html>.

ATMs, which accounted for 70% of the total number of cash withdrawals and 59% of the value of cash withdrawals in 2019.<sup>97</sup>

However, the use of cash as a proportion of payment transactions is declining, down from 70% in 2007 – reflecting a longer-term trend of cards replacing cash, as well as more payments taking place online or remotely, rather than in person, and the adoption of card payments in contactless and mobile form.<sup>98</sup> The COVID-19 pandemic has accelerated this trend, with 44% of Australians decreasing their use of cash during the pandemic.<sup>99</sup>

## 18.2 Cheque payments

In Australia, as in other countries, cheques are in long-term decline as peoples' lives are increasingly digital. As more services move online, consumers and businesses are moving away from cheques.

Cheque use in Australia has dropped by 83% over the last 10 years and accounts for less than 2% of all non-cash payments. Only small numbers of cheques are still used by certain sectors in the community.<sup>100</sup>

The system continues to operate as cheque numbers decline. Industry-wide digital cheque clearing was introduced in 2015 to speed up the processing cycle. Cheque data and images are now exchanged between financial institutions electronically, with paper cheques destroyed shortly after settlement. Previously, cheque clearing involved a physical network of official exchanges across Australia, and long-term storage systems.<sup>101</sup>

It is expected that the cheque system will be terminated and transaction volumes will move to more contemporary infrastructure within the next 5 to 10 years (noting discussions generally suggest an imminent sunset for the cheque system), with the NPP, eftpos, Visa, Mastercard, and possibly others competing for the volumes.<sup>102</sup>

## 18.3 Card payments

Card payments include a wide range of formats, but primarily debit card and credit card payments. Debit cards allow users to spend money by drawing on funds they have deposited in their bank account. Credit cards allow users to borrow money from the card issuer up to a certain limit in order to purchase goods and services or to withdraw cash.

Card payments are the most frequently used payment method in Australia.

In 2018/19, Australians made 10 billion debit and credit card payments for a total value of \$678 billion. This equates to an average of 395 payments per year and \$26,800 for each Australian resident. Cards are increasingly being used for smaller value transactions, where cash was traditionally used, with the average

<sup>97</sup> Please see <https://www.rba.gov.au/payments-and-infrastructure/payments-system.html>.

<sup>98</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019 page 2 – annexed as **Annexure 2**.

<sup>99</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 20 – annexed as **Confidential Annexure 1**.

<sup>100</sup> Please see <https://www.auspaynet.com.au/network/cheques>.

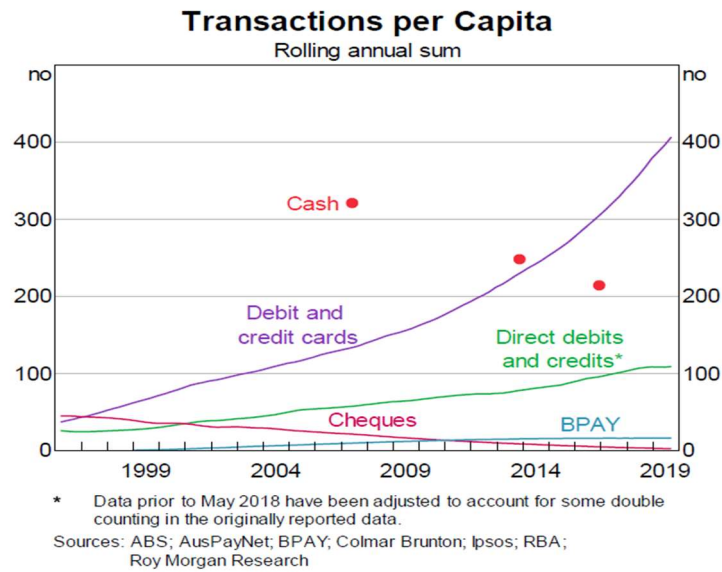
<sup>101</sup> Please see <https://www.auspaynet.com.au/network/cheques>.

<sup>102</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 16 – annexed as **Confidential Annexure 1**.



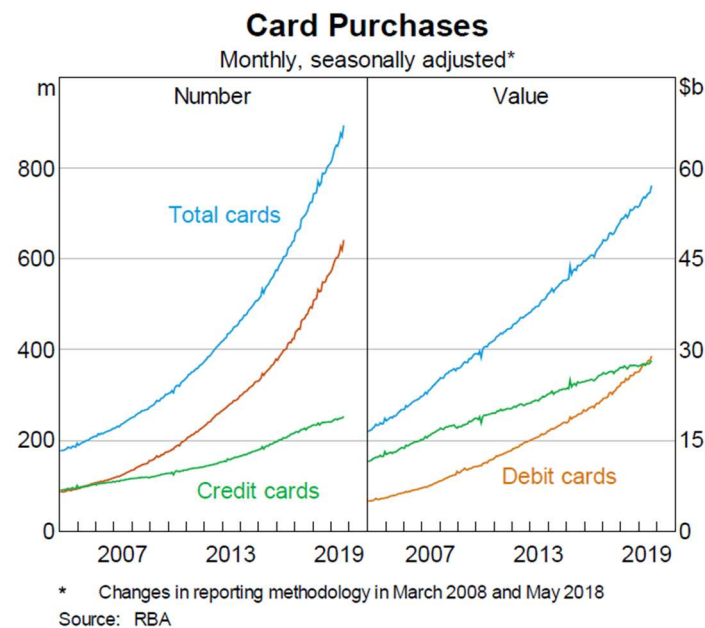
value of card transactions falling from \$103 in 2009 to \$66 in 2019<sup>103</sup> – a trend accelerated by the launch of contactless Tap'n'Go card payments in 2006.

**Exhibit 4: Transactions per Capita<sup>104</sup>**



Debit cards are the most popular form factor and, as shown in **Exhibit 5** and **Exhibit 15** below, have experienced rapid growth over recent years and have higher transaction numbers and (more recently) value than credit cards.

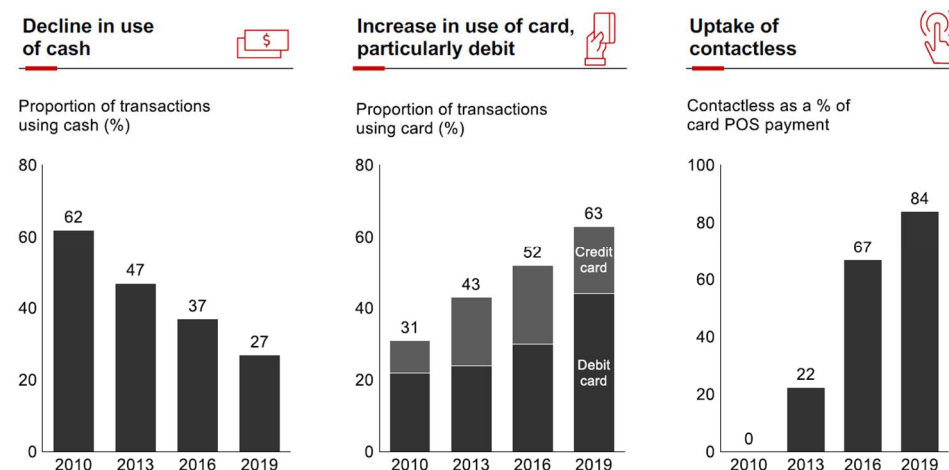
**Exhibit 5: Card Purchases<sup>105</sup>**



<sup>103</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 1 – annexed as **Annexure 2**.

<sup>104</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 2 – annexed as **Annexure 2**.

<sup>105</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 14 – annexed as **Annexure 2**.

Exhibit 15: Trends<sup>106</sup>

Domestically, eftpos facilitates debit card transactions at POS, online and ATM services. Other providers, such as Visa and Mastercard, facilitate both debit and credit card transactions at the physical POS and remotely, eg online.<sup>107</sup> To date, foreign debit card transactions have only been possible through an international network, such as Visa or Mastercard. The three schemes also offer similar protections to the cardholder in relation to protection from fraudulent and disputed transactions at the POS. However, from a merchant's perspective, the cost of accepting a debit card payment can vary depending on which of the three networks processes the transaction. For most transactions at retail merchants, payments via the eftpos system can be cheaper for them to accept than payments via the ICS.

Approximately 75% of all debit cards in Australia are DNDCs with the remaining 12 million being eftpos only proprietary cards. DNDC's allow payments from a single bank deposit account to be routed through two different debit networks on the one card.<sup>108</sup> For example, DNDCs can route domestic POS transactions either via the eftpos system (if the cardholder pushes the "cheque" or "savings" button after the card is inserted) or via the debit networks of MasterCard or Visa (using the "credit" button).<sup>109</sup>

If the cardholder makes a contactless (or "Tap'n'Go") payment, the default is for the transaction to be automatically routed to the network which has been programmed as the default network by the issuing financial institution. Until around 2016, contactless payments were only broadly available through Visa and Mastercard (which completed their rollout of contactless cards around 2009), and those networks were the default (and the original developers and deployers of the technology globally). eftpos subsequently developed the same technology and delivered almost 100% coverage by 2018.

To realise the benefits of eftpos' contactless coverage the RBA strongly encouraged the Major Australian Banks to develop a solution to enable merchants to route contactless transactions via whichever of the two networks on the card costs them less to accept. This solution (LCR) allows merchants greater control over their payment costs, and has increased competitive pressures

<sup>106</sup> [Confidential to the Parties].

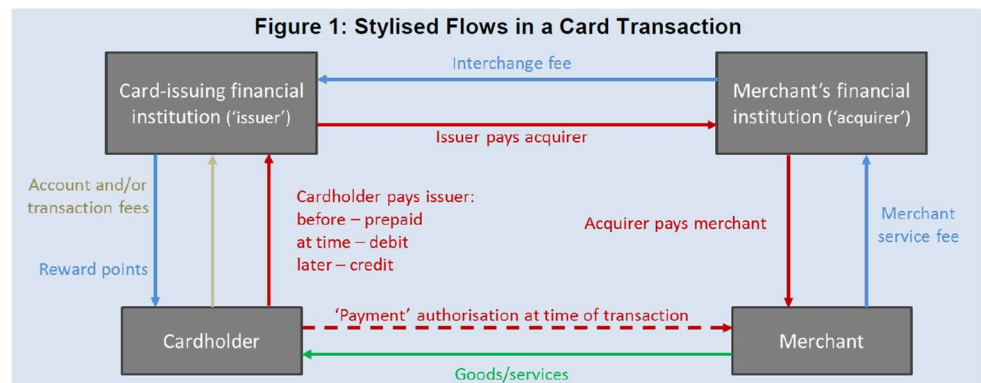
<sup>107</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 16 – annexed as **Confidential Annexure 1**.

<sup>108</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 14 – annexed as **Annexure 2**.

<sup>109</sup> Please see RBA, 'Dual-Network Cards and Mobile Wallet Technology – consultation paper', December 2016 – annexed as **Annexure 24**.

between the debit schemes, with greater incentives for them to lower their fees.<sup>110</sup> However, although all the Major Australian Banks now offer LCR, uptake by merchants has been low – demonstrating the challenge of introducing innovations that have already been preceded by the ICS.

**Exhibit 6: Flows in a card transaction<sup>111</sup>**



Use of contactless card payments has increased substantially since its introduction to 84% of card payments at physical POS. This trend has been accelerated by the COVID-19 pandemic, with 94% of Australians using contactless payments to buy groceries since the outbreak began.<sup>112</sup>

Digital wallets are another factor contributing to the rise of contactless payments. Before the digital representation of a “card” can be used in a wallet, it must be “provisioned” in that wallet, which involves “tokenising” the card by de-identifying the card details and replacing them with randomised numbers (a “token”) and storing that number on the user’s mobile device. The user may then use a mobile wallet, such as Apple Pay, Google Pay or Samsung Pay, to make contactless payments at the POS using their mobile device, typically through NFC technology.<sup>113</sup> While not all card issuers in the Australian market currently support each digital wallet, many card issuers, including some smaller banks, credit unions and building societies support one or more digital wallets.<sup>114</sup>

“In app” payments are also usually based on a card payment, with the card credentials being kept on file and used when a purchase is made through the app. This is a fast-growing area of the payments market, as more businesses roll out their own apps, such as Uber, Menulog, 13CABS and Woolworths Scan&Go (which allows the consumer to avoid the supermarket checkout), for example. These payments are often referred to as “seamless payments” or “payments in the background”.

QR Code based payments are another type of digital wallet technology that has emerged in other jurisdictions but has not yet achieved widespread use in Australia. The most prominent examples are Alipay and WeChat Pay, the Chinese mobile payment applications that have gained a large share of the

<sup>110</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 15 – annexed as **Annexure 2**.

<sup>111</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 5 – annexed as **Annexure 2**.

<sup>112</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 5 – annexed as **Confidential Annexure 1**.

<sup>113</sup> Please see RBA, ‘Dual-Network Cards and Mobile Wallet Technology – consultation paper’, December 2016, page 6 – annexed as **Annexure 24**.

<sup>114</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, pages 22 and 23 – annexed as **Annexure 2**.

payments market in China,<sup>115</sup> where they have circumvented the need for merchants to have PIN-pad card terminals.

To date, the most prominent use case for QR Code payments in Australia has been a growing number of retailers using them to facilitate payments from tourists from China, where take-up of QR Code based mobile payments has been extensive. While the number of use cases is growing, the limited use of QR Code payments in Australia to date largely reflects the very wide use of card payments and near-ubiquity of payment terminals that accept contactless payments using NFC technology.<sup>116</sup>

The COVID-19 pandemic has introduced many more Australians to the use of QR Code payments, as they are a requirement for checking-in at many cafes, restaurants, bars and other venues. Therefore, the use of QR Code payments may become more acceptable to Australian consumers in the future.

## 18.4 Electronic payments

### (a) Direct entry

The DE system facilitates A2A payments from one bank account to another account at the same or another financial institution.

To make a payment, the user must identify the recipient's account, typically through a BSB and account number or some other identifier. Payments collected from users' bank accounts are "direct debits" (eg a way many utility companies collect their payments) and payments sent to users' bank accounts are "direct credits".

DE payments are commonly used by businesses to make and receive regular payments, such as employee salaries and recurring bills. DE payments may also be used by consumers and businesses to initiate "pay anyone" transactions using internet banking applications.<sup>117</sup>

AusPayNet administers BECS, which coordinates and facilitates DE payments between participants, who need to be approved by a financial institution as a DE user. Financial institutions exchange payments in bulk 6 times a day at 10:00am, 1:00pm, 4:00pm, 6:30pm, 8:45pm and 10:30pm, with same-day settlement after each of the first 5 official exchanges. Same-day settlement was introduced in November 2013 to reduce counterparty and operational risk and gives financial institutions flexibility in developing products to suit customers' needs.<sup>118</sup>

DE is the workhorse of the Australian payments system, carrying average yearly values of more than \$15 trillion. One of DE's features is its relative low cost because of high volumes and batched payment processing.<sup>119</sup>

While the DE volumes continue to grow, it is expected that these payments will move to more contemporary infrastructure, such as the

<sup>115</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 23 – annexed as **Annexure 2**.

<sup>116</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 3 – annexed as **Annexure 2**.

<sup>117</sup> Please see <https://www.auspaynet.com.au/network/direct-debit-electronic-transfers>.

<sup>118</sup> Please see <https://www.auspaynet.com.au/network/direct-debit-electronic-transfers>.

<sup>119</sup> Please see <https://www.auspaynet.com.au/network/direct-debit-electronic-transfers>.

NPP, over the next 5-10 years,<sup>120</sup> as the cost of transactions over NPP declines and investments are made in new features and functions.

**(b) NPPA**

The NPP provides participating financial institutions – which offer services to Australian government agencies, businesses and consumers – with an alternative to DE for A2A payments with a fast, versatile, and data-rich system for making everyday payments.

The NPP allows payments of any value to be processed in real-time 24x7x365 between accounts connected to the NPP. The highest value single payment processed via the NPP is \$19.8 billion.

While NPP payments can be sent using a BSB and account number, they can also be sent to a “PayID” alias linked to a bank account. Approximately 5.5 million PayIDs have been registered by customers who want to receive payments to their bank account via their PayID, with this number growing at approximately 180,000 per month. NPPA has seen an increase in small businesses promoting PayID as a payment method during the current COVID-19 crisis.<sup>121</sup>

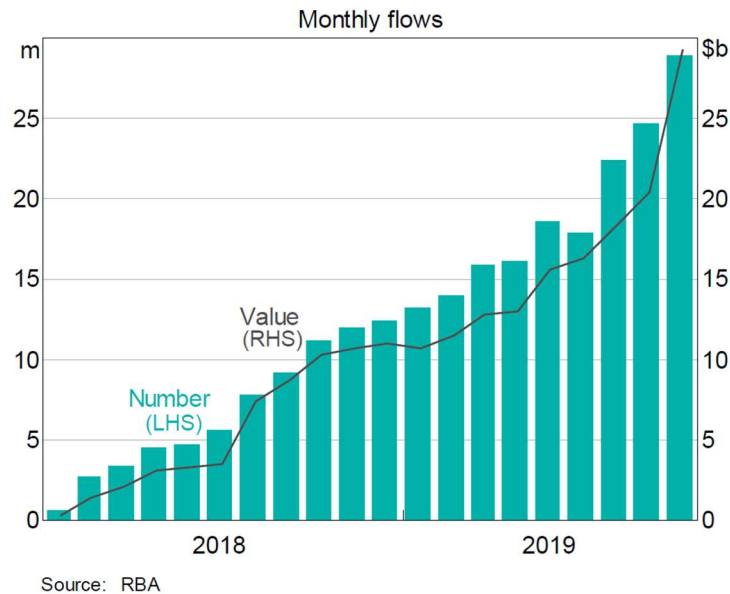
The NPP also supports “overlay” services, which offer customers additional payments functionality by building on the underlying infrastructure (in the same way that the “in app” payments, as noted above, overlay the card networks). The first of these overlay services is Osko by BPAY, payments through which currently represent approximately 80% of all NPP payments.

With B2B supply chains becoming more digitised, there has been a corresponding growth in the use of real-time A2A in B2B and P2P payment use cases through the adoption of the NPP. Since the NPP was launched to consumers in February 2018, monthly flows have increased substantially to over \$25 billion, as shown below in **Exhibit 7**. Close to 20% of all A2A credit payments now travel by the NPP,<sup>122</sup> with a number of banks directing their “pay anyone” transactions onto the new platform.

<sup>120</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 16 – annexed as **Confidential Annexure 1**.

<sup>121</sup> Please see NPP, ‘Update on the New Payments Platform Roadmap’, 30 April 2020, page 4 – annexed as **Annexure 22**.

<sup>122</sup> Please see NPP, ‘Update on the New Payments Platform Roadmap’, 30 April 2020, page 3 – annexed as **Annexure 2**.

Exhibit 7: New Payments Platform<sup>123</sup>

The RBA has signalled that “at some point, it may be appropriate to consider whether the enhanced functionality of more modern arrangements (such as the NPP) offer benefits that would justify migration of remaining payments going through the DE system.”<sup>124</sup>

(c) **BPAY Payments**

BPAY Opco’s bill payment service processes 7.8 million payments worth \$8.9 billion each week from over 13 million Australians to over 60,000 businesses.<sup>125</sup> Most of the transactions are handled overnight in batch form.

The BPAY Scheme is primarily used in C2B payments to facilitate the payment of bills and invoices in a consumer-friendly way. It is also used by a lot of small businesses for similar reasons. Rather than requiring businesses and consumers to identify an account using a BSB and account number to receive the payment, the BPAY Scheme allows businesses to add a “Biller Code” and a CRN to a customer invoice, which is used to identify the account or bill to be paid without the need to provide any personal information about the customer.<sup>126</sup> The CRN allows straight-through processing in the biller’s back office and is well liked for the efficiencies that it brings.

A consumer cannot enact a BPAY transaction without sufficient funds being available in their account. This avoids the potential BPAY transaction being declined or rejected, which occurs when a Direct Debit transaction is processed but there are insufficient funds in the target payer account to make the payment.

<sup>123</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 2 – annexed as **Annexure 2**.

<sup>124</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 12 – annexed as **Annexure 2**.

<sup>125</sup> Please see Industry Committee Resolution, 16 October 2020, Annexure C – Presentations by: eftpos, BPAY and NPPA, page 17 – annexed as **Confidential Annexure 1**.

<sup>126</sup> Please see <https://bpay.com.au/business/business-faqs>.

**(d) Other electronic funds transfer methods**

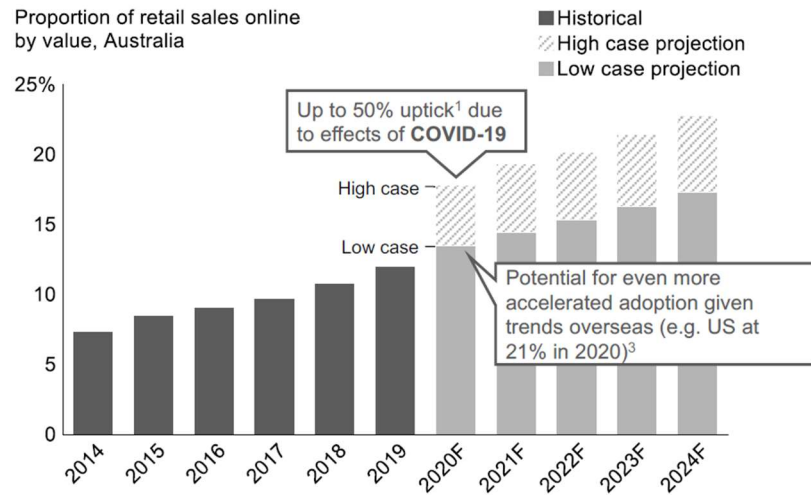
Other forms of electronic payment that are gaining traction are P2P and P2B funds transfer. PayID is one method used for this. Beem It is another. In each instance a user registers a proxy for their BSB and account number or card number and can transfer funds to other registered users. Initial use cases were funds transferred between individuals from deposit accounts although these methods can be scaled through payments to merchants and other businesses.

**18.5 Current and future trends in Australian payments**

**(a) The shift to eCommerce**

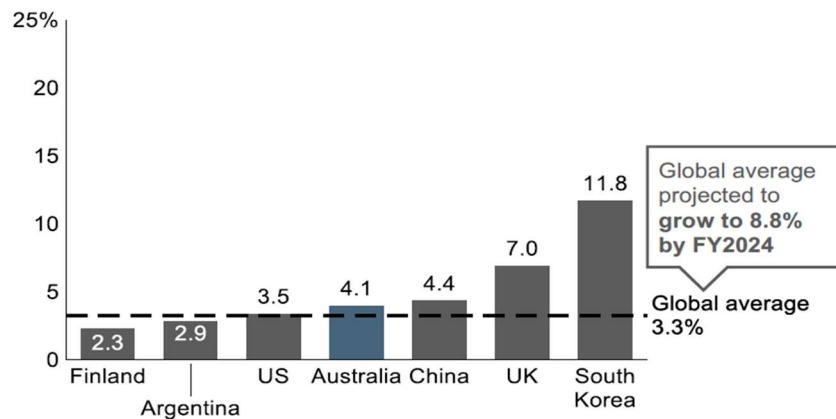
Rapid evolution in technology, new payment form factors and changing consumer behaviour are accelerating the shift to online transactions and eCommerce. This trend has been accelerated by the COVID-19 pandemic as more people turn to online shopping for essentials and groceries during lockdowns and to comply with social distancing restrictions, as shown in **Confidential Exhibits 16 and 17** below.

**Exhibit 16: Online retail sales expected to continue to grow in Australia<sup>127</sup>**



**Exhibit 17: In Australia, online grocery at ~4% share, but significant global growth is projected in next 4 years<sup>128</sup>**

2019 proportion of grocery<sup>2</sup> sales online by value, in selection of countries



As part of a longer-term trend, more payments are taking place online or remotely rather than face-to-face. In part, this reflects the way that purchasing habits have changed, with more shopping taking place online.

eCommerce has quickly become an indispensable part of life for most consumers and many merchant/SME businesses in Australia. Retail payments have always been important for consumers, businesses and the Australian economy more broadly. However, the user experience is increasingly being changed by the application of technology (independent of the underlying infrastructure) to make paying more convenient and seamless.

The eCommerce space is currently dominated by international card payments schemes (Visa, Mastercard, and American Express) as well

<sup>127</sup> [Confidential to the Parties].

<sup>128</sup> [Confidential to the Parties].

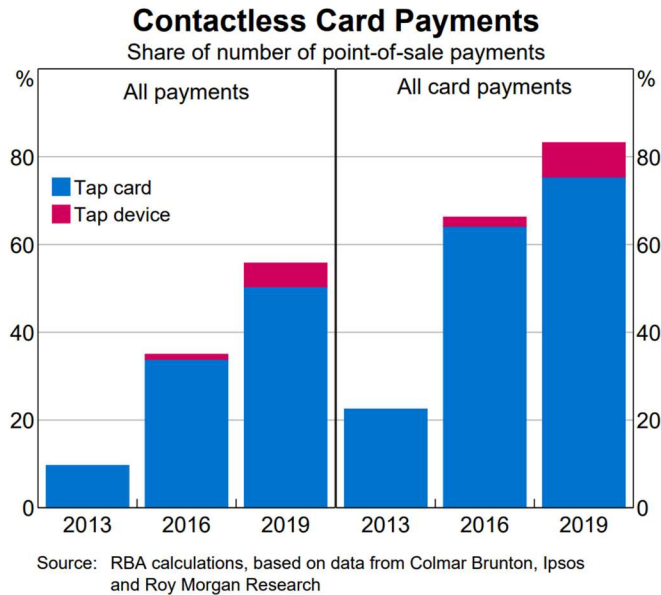


as PayPal. Australian domestic schemes do not currently have, or are only just beginning to implement, capabilities to support eCommerce transactions.

**(b) Mobile payments and digital wallets**

In Australia, the roll out of the major contactless mobile wallets occurred many years after the launch and mass adoption of contactless debit and credit cards. By the time Apple Pay launched in Australia in late 2015, over 60% of card transactions at POS were contactless payments, as depicted in **Exhibit 8** below.

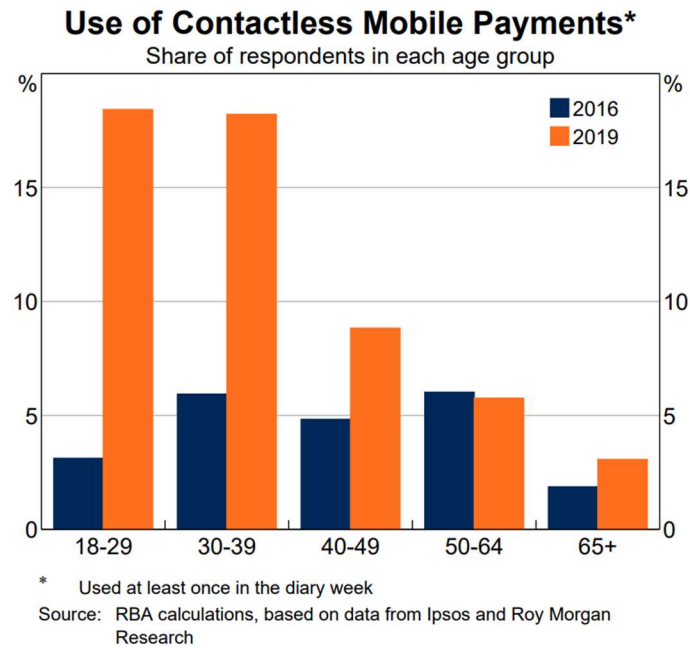
**Exhibit 8: Contactless Card payments in 2013, 2016 and 2019:**<sup>129</sup>



With Australian consumers already used to contactless payments using their physical debit or credit card, adding this capability to a smartphone has not significantly increased the adoption of contactless payments using a mobile phone.

However, while mobile device contactless payments still account for a relatively small share of consumer payments, the use of mobile payments has grown significantly over the past three years, as depicted by **Exhibit 9** below.

<sup>129</sup> Please see RBA, 'Consumer Payments Behaviour in Australia', March 2020, page 13 – annexed as **Annexure 25**.

**Exhibit 9: Use of contactless mobile payments 2016 and 2019:<sup>130</sup>**

Mobile payments using digital wallets and NFC technology leverage the existing debit and credit card infrastructure of the ICS and eftpos. However, the shift to mobile payments has also created difficulties with LCR, as the tokenisation process is undertaken by the scheme and depending on the digital wallet used, it may be unclear which token is used for the transaction. For each of Apple Pay, Samsung Pay and Google Pay, DNDC can be loaded so that both a token for the ICS and a token representing eftpos can be loaded. This means that unless the consumer knows and actively changes the priority (ie selects eftpos), the mobile payment will be processed via the ICS whether or not both functions are enabled. eftpos is now available as an option across the market and around 25% of active mobile users choose eftpos even though this option has not been marketed to date and will be doing a back book catch up.

**(c) Real-time A2A payments**

Other significant trends in international payments, and one that is beginning to emerge in Australia, are the growth of real-time A2A payments and the shift towards value-added products and service. An enhanced infrastructure will allow financial institutions (and others) to bring to market.

Some countries, such as Japan, have had real-time payments for many years, but the deployment of real-time payment systems across multiple geographies is a relatively new phenomenon: Australia's own NPP only went live in February 2018, the European Central Bank launched its Target Instant Payments Settlement in November 2018 (facilitating instant cross-border payments in the EU), and Malaysia's RPP was launched in January 2019. Others have been in place for a longer time: such as the UK's Faster Payments which launched in May 2008 and Singapore's FAST system which launched in March 2014.

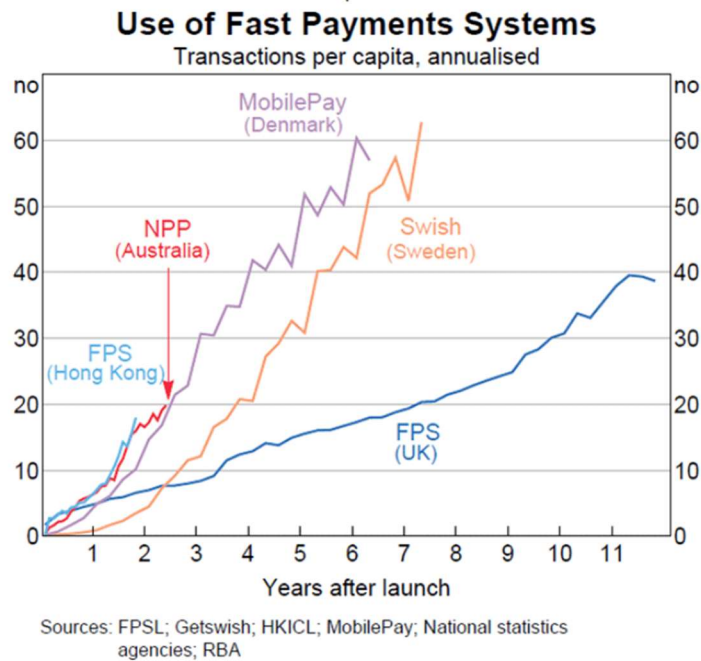
<sup>130</sup> Please see RBA, 'Consumer Payments Behaviour in Australia', March 2020, page 13 – annexed as **Annexure 25**.

Additional real-time payment systems are being planned around the world. In Northern Europe, the P27 Nordic Payments Platform (owned by a consortium of large Nordic banks) has announced the development of the first multi-currency real-time payments system across the Nordic region. In the United States, the Federal Reserve Board announced that the Federal Reserve Banks will develop the FedNow Service, a new national RTGS to support faster retail payments 24 hours a day, 7 days a week, which is expected to be available in 2023 or 2024. The Clearing House, another US platform for A2A payments, had planned to have rolled out its domestic real time payments platform by 2020.

Given the high costs associated with launching and implementing a real-time payments infrastructure such as the NPP, the cost per payment is relatively high, with significant costs being spread over a limited volume of transactions (compared to the high volumes handled by other traditional payment methods such as DE).

Given the real-time nature and immediacy of everything else in the modern consumer's life, real-time A2A payments will continue to grow in relevance in many scenarios.

**Exhibit 10: Use of Fast Payments Systems<sup>131</sup>**



In Australia, the trend towards wider adoption of real-time A2A payments is nascent (eg the use of AzuPay by ServiceNSW), but is likely to grow and will be driven by the recent introduction of Open Banking regulation, NPP transaction costs reducing over time and the future introduction of third-party payment initiation services.<sup>132</sup>

Future investment and innovation in A2A payments will focus on payments where businesses and governments participate (B2C, B2B, G2P, G2B), and where the willingness to pay for specific functionalities is much higher than amongst consumers. To date, A2A payments have

<sup>131</sup> Please see RBA Payments System Board, 2020 Annual Report, page 33 – annexed as **Annexure 26**.

<sup>132</sup> Third-party payment initiation services will be live in Australia by 2022 through NPP's MPS, advancing the open banking movement regardless of forward progress on allowing 'write access' within the regulations.

had higher penetration in the G2P sector – with almost 100% of government welfare and healthcare payments made in 2020 using A2A payments.<sup>133</sup> Expansion into these new areas and transitioning from legacy DE infrastructure should deliver much larger volumes of transactions to the NPP in Australia.

The adoption of real-time payments by consumers in a number of markets suggests that only through open access and APIs will real-time payments become widely adopted. A notable example of the importance of this is the rollout of India's Universal Payments Interface, which provides real-time access by allowing direct payments integration with external business applications, for both push and pull payments across a wide range of channels.

As volumes through the NPP increase, the price point per transaction should decline, to a point where real-time payments on the NPP become cost competitive to other payment options. Theoretically, this would expand the use cases for real-time A2A payments, such as in the online (or remote) retail space, where consumers could make A2A payments to retailers while online shopping for retail goods, or to pay for groceries online using a mobile app, for example.

The growth of real-time A2A payments provides optionality for retailers to capture the upside of the trend and the following benefits:

- i) Reduced cost of acceptance – as A2A payments avoid card merchant service fees, potentially making it a lower cost payment method on certain transactions for retailers, who can pass on the savings to customers.
- ii) Real time payment – reduces working capital requirements as there is no waiting period for payments to clear or settle.
- iii) Retailer specific payment solutions – the potential for retailers to create their own payment platforms, potentially removing the need for intermediary payment players and reducing costs.
- iv) Integrated loyalty platforms – retailer apps could be used to initiate payment and may be integrated with loyalty programs.<sup>134</sup>

There remain significant challenges for A2A payments in a physical POS environment, requiring significant investment and changes to consumer behaviour to make A2A payments a viable alternative to the fast, cheap, efficient and purpose-built card-based payments systems such as eftpos and the ICS.

The ICS have recognised this trend and are investing heavily in A2A payment capabilities for C2B and P2P. In 2017, Visa launched its Visa Direct product for worldwide real-time transfers and is expanding into cross-border A2A payments and open data/APIs through its acquisition of Earthport. In 2019, Mastercard launched Mastercard Send, for real-time cross border and domestic payments and has expanded further into A2A payments with the acquisition of Nets (Scandinavia). In 2019, American Express also launched A2A capability with its 'Pay with Bank

<sup>133</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 18 – annexed as **Confidential Annexure 1**.

<sup>134</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 24 – annexed as **Confidential Annexure 1**.

transfer' capability in the UK.<sup>135</sup> These services depend on the banking clients of the ICS adopting and integrating the capabilities into their card platforms. Domestically, eftpos has purchased Beem It which facilitates A2A transfers and is itself enabling QR Code orchestration to provide optionality and retailer specific payment solutions. However, these services will also depend on banking clients adopting and integrating the capabilities.

Overseas, there are cases of higher penetration of real-time A2A payments in both in-store (or POS) retail and online (or remote) retail transactions. For example, 77% of non-cash POS transactions in India in May 2020 were made by real-time A2A payments. In the Netherlands, 57% of online payments made since 2018 were made by A2A payments using "Ideal", with real-time payment capability from 2019.

#### (d) The growth of BNPL

While BNPL services have been offered for years in Australia by Latitude (formerly GE Money) and Flexigroup (formerly Flexirent, and now Humm), the newer providers such as AfterPay and Zip Co have found success recently by optimising the experience for mobile and digital transactions for smaller value purchases.

BNPL services allow customers to purchase goods or services but defer payment via low or zero-interest instalments to the BNPL provider, typically over 1–2 months. While arrangements vary, some of the prominent BNPL providers have models whereby the service is 'free' for consumers if payments are made on time, with merchants charged a relatively high per-transaction fee for accepting the payment.<sup>136</sup>

Afterpay, Zip, Humm, OpenPay and Splitit are merchant funded and charge the merchant a percentage of the transaction value. For example, Afterpay charges the merchant a per transaction fee plus up to 6% of the purchase value, although rates can be as low as 2%, while Zip Co's average charge to merchants is 4% of the purchase value.

Customers typically make instalment payments to the BNPL provider using a debit or credit card, leveraging existing payment rails rather than creating new infrastructure. For example, 85% of Afterpay repayment transactions are via debit cards and ASIC has reported an 80/20 debit/credit funding split. BNPL remains a very small share of total spend (equivalent to less than 1.5% of total card purchases in 2020),<sup>137</sup> with the initial payment frequently being made with a card and the subsequent instalments tending to be paid by DE.

These services have become widely accepted by merchants in a number of retail segments, both online and in person, and as shown in **Exhibit 11** and **Exhibit 18** below, have been growing significantly in recent years.

<sup>135</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 42 – annexed as **Confidential Annexure 1**.

<sup>136</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 29 – annexed as **Annexure 2**.

<sup>137</sup> Please see RBA Payments System Board, 2020 Annual Report, page 31 – annexed as **Annexure 26**.

Exhibit 11: BNPL Payments Processed:<sup>138</sup>

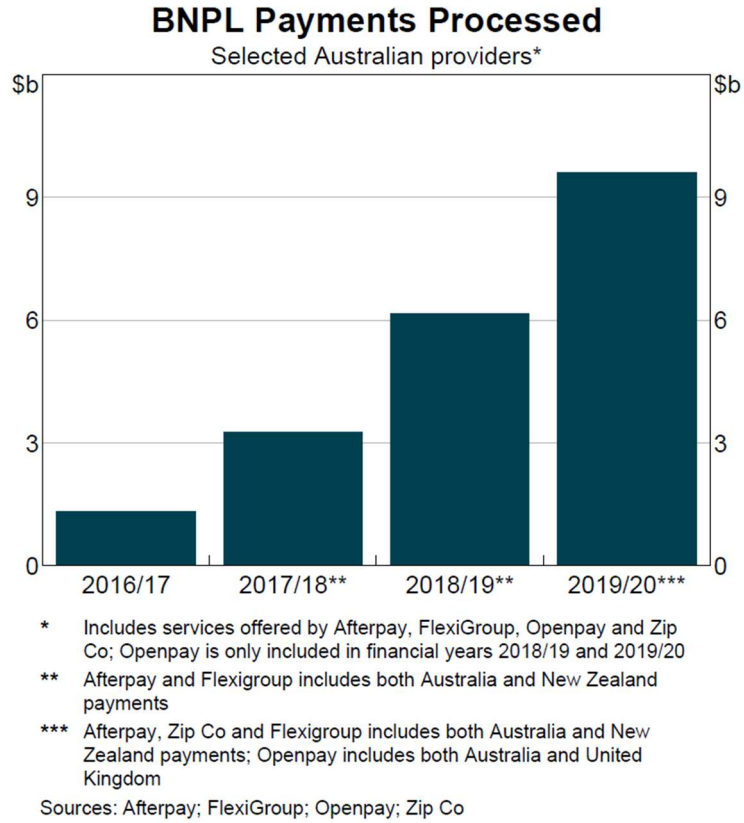
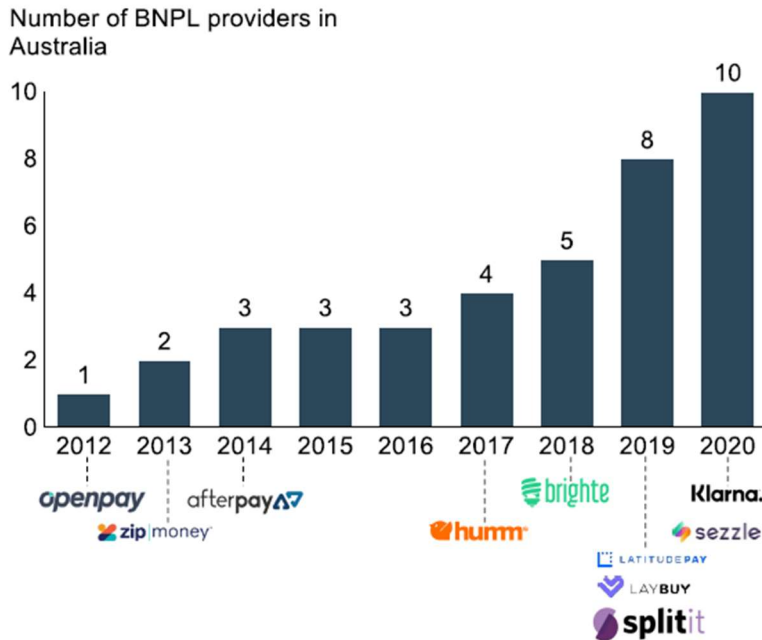


Exhibit 18: Number of BNPL providers<sup>139</sup>



From a consumer perspective, the popularity of BNPL services has increased significantly over the last decade, due to the convenience of

<sup>138</sup> Please see RBA Payments System Board, 2020 Annual Report, page 31 – annexed as **Annexure 26**.

<sup>139</sup> [Confidential to the Parties].

the mobile phone interface and their availability as a potentially lower-cost and more accessible form of consumer credit noting that BNPL is not generally regulated by consumer credit code. There are indications that BNPL services are used more intensively by certain segments of the population, particularly younger people, who may not have a credit card.

For merchants, it has been argued that BNPL services may facilitate increased sales as well as provide additional benefits – for example, as merchants are paid upfront by the BNPL provider, they do not bear the risk of fraud or customer non-payment.<sup>140</sup>

**(e) The adoption of seamless payments**

“Seamless payments” refers to the ability to browse, select and then purchase products or services without having to go through a checkout or POS system.

Typically, this is in the form of in-app payments for goods or services within a smartphone or tablet app which is usually downloaded onto the device. In-app payments use payment credentials already held on file (also known as “card on file”), where the user has explicitly authorised the business to store the payment details (eg card number, expiry and CVV) and permits the business to charge the credentials for future purchases, as and when they are made. The ICS and eftpos support in-app payments to varying extents.

In-app payments are typically used for purchasing digital content such as entertainment (eg films, TV shows and games), as well as for mobile shopping, ridesharing and food delivery services and an increasing range of activities. Combining in-app payments with customer loyalty programs, allows businesses to learn more about their customers through richer data collection and opens a new marketing channel that can promote new products and services directly to users.

For most merchants who would not have in-house capability to implement in-app payments, there are a variety of major payment gateway providers that offer in-app payment services, including the ability to store card on file. These payment gateways can offer merchants greater security, by handling aspects such as PCI compliance, and seamless integration into existing apps using APIs. These include Adyen, Braintree, Bambora and Square.

**(f) Consumer-focussed data regulation is supporting the shift to digital**

Australia is in the process of implementing Open Banking, as the first part of the CDR, which is a general right created for consumers to control their data, including who can have access to it and who can use it for specific purposes.

Open Banking aims to give customers the right to direct information and data they already share with their bank to be safely shared with other parties that they trust. It is designed to give customers more access to, and control over, their information, leading to more choice in their banking and more convenience in managing their money, and resulting in more confidence in the use and value of their data. Australia’s Open

<sup>140</sup> Please see RBA, Review of Retail Payments Regulation: Issues Paper, November 2019, page 30 – annexed as **Annexure 2**.

Banking scheme has taken learnings from and has improved on the UK Open Banking model.

Open Banking is set to be a significant driving force behind innovation, competition and the integration of data rights in the payments space. While there is currently no regulation to mandate "request to pay" functionality, reviews are in progress with the potential to require banks to provide "write access" to third parties – albeit this functionality will be delivered by the MPS being developed on the NPP. Open Banking - should – and certainly the MPS will allow third parties to access consumers (and in the case of MPS, businesses and government agencies) accounts with different providers through a single interface that is not necessarily owned by an incumbent bank. This will drive increased competition in payments, will facilitate open access to APIs and enable third party innovation to unlock and create new payments functionality, including:

- i) The ability to enable transactions or funds transfers on behalf of a consumer.
- ii) The aggregation of a customer's data across financial institutions and the development of tailored services or applications.
- iii) Innovation with data in credit assessments, automated loan applications, and budgeting, for example.<sup>141</sup>

**(g) The rise of fraud and cybercrime**

Payment providers have always had to balance the trade-off between "convenience" and "security".

Fraud losses in payments (primarily concentrated in payment cards) remain large, but the fraud rate (in terms of basis points or cents per dollar spent) is no longer increasing and globally has declined for the last 2 years. However, as card transactions continue to replace cash and cheques, the actual dollar losses due to cybercrime and fraud (USD28 billion in 2018) continue to grow.

The success in reducing the fraud rate on card payments has come through coordinated industry action, including:

- i) Widespread roll out of Chip&PIN (or Chip and signature in the USA) for transactions at physical POS.
- ii) Use of Strong / 2-Factor Authentication for Card-Not-Present payments, which is mandated in a number of jurisdictions.
- iii) Improvements in fraud mitigation software, including the application of machine learning and artificial intelligence.
- iv) The roll out of tokenisation, in order to protect card information held on file in databases and in mobile handsets.

According to AusPayNet, the total fraud value on Australian cards fell in 2019 by almost 20% to \$464 million, with this occurring despite a 3.9%

<sup>141</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 26 – annexed as **Confidential Annexure 1**.



increase in spending on cards to \$819 billion.<sup>142</sup> This caused the fraud rate on card payments to drop significantly from the 2018 level of 73.1 cents per \$1,000 spent, down to 56.6 cents – being the second annual reduction in the fraud rate on cards, down by 25% from the peak in 2017.

Card-Not-Present transactions continue, however, to dominate the overall fraud value on cards, at 87% of total; in recognition of this, the CNP Fraud Mitigation Framework was launched by AusPayNet during 2019 in order to assist the industry in addressing and controlling this form of fraudulent activity.

Card-Not-Present fraud continues to be driven by data breaches at third parties, primarily at merchants both at home and abroad, where cardholder credentials are stolen from data systems. Whether the card data is accessed through the IT systems of an online retailer, a utility company, an airline or elsewhere, the loss of payment credentials can directly lead to fraud and can also be used by the perpetrators as part of their scams. The data can be stored by the criminals, often organised gangs rather than individuals, and used a long time after the breach takes place.

The increased use by consumers and businesses of online services for purchases and many different aspects of day to day life, and the convenience of storing a Card-On-File at a regularly visited merchant, is leading criminals to increasingly focus their efforts on cybercrime to capture payment credentials. In this regard, the industry's roll out of card tokenisation aims to nullify the value of Card-On-File details held by merchants.

Despite this, card fraud rates inside Australia are all trending down, and remain especially low for Australian cards physically used within Australia.

**(h) The influence of Big Tech in the Australian payments landscape**

Beyond the large ICS of Visa and Mastercard, the Australian payments landscape is and will continue to be heavily influenced by the operations of the American and Chinese Big Tech giants in Google, Apple, Facebook, Ant Group and Tencent.

These companies are leveraging their ecosystems to extend into payments and to build their broader value proposition.

Google has largely focussed on mobile and online payments with its e-wallet, Google Pay, leveraging its integration throughout Google's ecosystem, including through its Chrome browser and Android platform. The use of card payments within Google Pay remain free to card issuers. It has recently upgraded Google Pay in the USA and is now offering banking services, initially via Citibank.

Apple also has a mobile payment offering through its e-wallet, Apple Pay and is innovating with ways to pay within their ecosystem (ie over iMessage), and in the USA, has moved into the credit card space with the Apple Card in collaboration with Goldman Sachs. The use of card payments within Apple Pay incurs a charge to card issuers.

Outside Australia, Facebook has a unified service that allows people to instantly transfer money to their friends or pay for items across its suite

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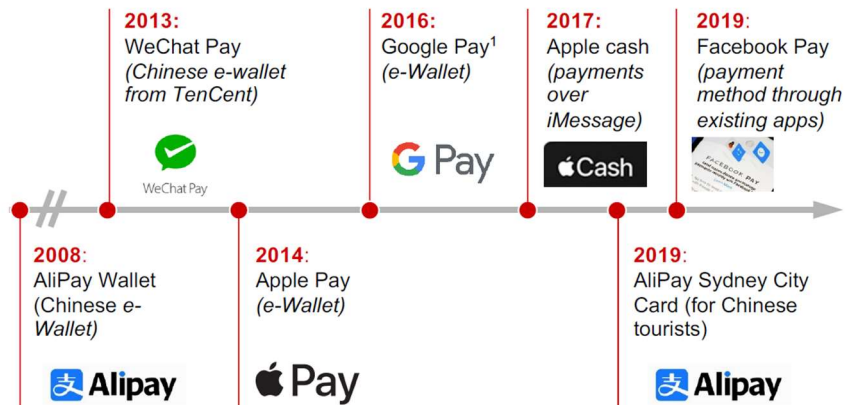
<sup>142</sup> Please see Australian Payments Network (2020), 'Australian Payment Fraud 2020', Final Report, August – annexed as **Annexure 27**.

of apps in Whatsapp, Instagram and Messenger with Facebook Pay. While it is not currently live in Australia, Facebook secured an Australian patent for Facebook Pay in 2017.<sup>143</sup>

Ant Group’s world leading mobile and online payment platform, Alipay, has focussed on a global expansion beyond China via partnerships, particularly in countries with a high volume of Chinese tourists. Tens of thousands of merchants in Australia accept Alipay, including more than one hundred leading retailers and tourist destinations.

Similarly, Tencent’s e-wallet product, WeChat Pay, is a payments platform attached to its messaging and social media platform, WeChat. Tencent has focussed on the global expansion of WeChat Pay outside of China by recruiting retailers in popular Chinese tourist destinations.

**Exhibit 19: Product releases in last 12 years (non-exhaustive)**



**(i) Digital identity**

A complementary component of the Australian payments landscape is the development of digital identity services. Digital identity services enable identification information to be shared between identity service providers (government agencies, banks, utilities and others) and relying parties with which the consumer wishes to engage. Digital identity can facilitate smoother commerce and eCommerce for users and could potentially enable micropayments and other “gig economy” commerce.

**19 Regulation of the Australian payments industry**

The Australian payments industry is regulated, principally by the RBA and PSB. The regulation is based on sound and well-established policy. It necessarily results in barriers to entry and participants incurring compliance costs. The regulation by the RBA and PSB is described in **Schedule 4 – Regulation by the RBA and PSB**.

The Conduct will not have any effect on the regulation of the Australian payments industry other than, potentially, to remove a need for future regulation to consolidate the industry as has occurred in other countries, such as the United

<sup>143</sup> Please see Max Mason and James Eyers, The Australian Financial Review ‘Facebook wins Australian patent for Messenger payments’, 2 July 2017 – annexed as **Annexure 28**.

Kingdom, or remove the need for regulation to support eftpos' ability to compete with the ICS, as in the case of LCR.

**Schedule 5 – Developments in payments industries outside Australia** outlines two case studies on domestic payments consolidations in the United Kingdom and Singapore.

Removing the need for future regulation would be a benefit to the public because it would avoid the costs associated with enacting and enforcing regulation.

The RBA periodically consults the broader community and agencies of government on matters relating to its responsibilities. Consultations may relate to policy issues or specifically in relation to the introduction of variation of regulations.

The RBA must not determine or vary a standard or impose an access regime unless it has first consulted in accordance with section 28 of the *Payments Systems (Regulation) Act 1988* (Cth).

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## 20 Consolidations of domestic payments industries outside of Australia

Please see **Schedule 5 – Developments in payments industries outside Australia** which outlines two case studies on domestic payments consolidations in the United Kingdom and Singapore.

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## 21 Global payments providers

Please see **Schedule 6 – Global payments providers** below for a description of the global payments providers, including reference to the recent acquisition history of Visa and Mastercard (who are no longer traditional card operators) as well as Apple and Google.

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## 22 Extent of complementarity between BPAY, eftpos and NPPA

### 22.1 Common shareholders

The Major Australian Banks are common shareholders and members in each of BPAY Holdco, eftpos and NPPA.

In addition, there are six other common members and shareholders with interests in NPPA and eftpos: ASL, Bendigo and Adelaide Bank Limited, Cuscal Limited, Citigroup Pty Limited, Indue Limited and ING Bank (Australia) Limited.

### 22.2 Complementarity between the three payment schemes

The three payments systems have offerings with a different initial primary use case and core target market/customer base.

The NPP provides the core capabilities required for fast and flexible A2A payment messaging, the BPAY Scheme offers P2B and B2B bill payments, Osko facilitates a variety of real-time payments (P2P, P2B, B2B, B2P and G2P) via the NPP with overlay services that are complementary to NPP's core service, and eftpos facilitates debit card transactions at retail POS, in-app and online, mobile

payments at POS and through Beem It P2P and P2B payments via a wallet for any channel through its impending QR code capability.

Customers are increasingly demanding different payment options from their mobile, wearable and other digital devices. Customers are using methods that use different rails, particularly non-card rails, to make payments. This means that there is an imperative for payment companies, including the three payments schemes, to offer hybrid payment options in order to remain competitive.

The complementary aspects of each of the three payments schemes present an opportunity to form a single entity for domestic low-value payments which can offer hybrid payment options. For example, the main overlay service on the NPP is BPAY Opco's Osko. Through Osko, BPAY Opco has created the "rules" that define how NPP messaging and connectivity is to be used to deliver an Osko payment, in regard to speed, the type of information that goes with the payment and what the end customer experience is. In this instance, BPAY Opco is offering its product or service to NPP participants and Identified Institutions, who can choose to subscribe to the product or service and distribute it to their end users/customers. It is a complement, not a substitute for NPP's core SCT service, because an SCT service must be used every time an Osko overlay service is used.

The NPP processes A2A payments and is not used to clear debit card transactions.

The growth of real-time account to account transfers provides optionality for banks and retailers to benefit from payments volume moving to emerging use cases (eg supermarkets in Sweden accept payments by QR Code via Swish, an app with 67% penetration of the population).

Amalgamating the three schemes would give each of the existing companies the opportunity to work collectively to develop for customers hybrid products involving capability from the three payments systems without the need for service or joint venture contracts which could enable this to be done currently.

Hybrid products across the three payments schemes would be more difficult for the international payments companies to mimic and would lead to more innovation in the Australian payments sector and increased competition with the international payments companies.

### 22.3 Increasing investment overlap

Historically, there were clear boundaries in the purpose, proposition and use cases for each of BPAY's, eftpos' and NPPA's respective Payments Schemes with no or very little competitive overlap between them.

In the current environment of increased use of ever-advancing technology and innovation, the boundaries between the three Payments Schemes are becoming increasingly blurred. For example, each of the three Payments Schemes have offered solutions for recurring P2B Payments, although the main targets of each differ. BPAY's request to pay service is targeted at a broad range of customers including billers who want to request that payments be "pushed" to them by customers, small businesses and P2P. For eftpos' card on file service, the main target is recurring in-app payments currently dominated by the ICS. For NPPA's MPS, the main target is billers who want authorisations from customers to "pull" payments from their accounts on a regular basis (in the form of a modernised version of the service currently provided by direct debits over the DE System).

The challenges of co-ordinating these investment overlaps are causing the market failures on which this Application is based.

Customers of the domestic schemes require these platforms to keep up with technology and international offerings. The Conduct will create a more efficient, streamlined entity, with a coordinated and targeted roadmap that will enable financial institutions and retailers to more efficiently support and to integrate the streamlined entity's innovations into their own banking platforms and bring the domestic initiatives to market with more certainty and more quickly.

Recent payments innovations by the three Australian payments schemes (eg, Osko request to pay) have had slow speed to market, or have not made it to market, due to challenges in the shareholders/members coordination.

The Conduct is expected to increase speed to market by removing barriers to coordination that have traditionally existed between BPAY Opco, eftpos and NPPA. The domestic payments industry, which funds the domestic payments systems, has finite financial and IT resources – a coordinated approach will improve speed to market.

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## 23 Market definition – Commission's previous decisions

### 23.1 2017 Determination – Clearing and settlement of low-value payments

In its 2017 determination in relation to NPPA's applications for authorisations for NPP regulations concerning eligibility requirements and settlement provisions, and suspension and termination of NPP participants, the Commission confined its assessment of the Proposed Conduct to the clearing and settlement of low value payments.<sup>144</sup>

### 23.2 2016 Determination – Payments market

In 2016, the APCA applied for authorisation (A91525 & A91526) for APCA and relevant members to provide for the roll out of 3D Secure to all relevant payment cards issued in Australia, and to all online merchants in Australia. While the Commission decided not to grant interim authorisation, its analysis of markets remains relevant.

The Commission's view was that the participants operated within the online payments market and within that market distinguished between the payment schemes, credit/debit and eftpos cards, and the acquirers, being the financial institutions (usually a bank) that offered merchants the service of receiving and processing credit/debit card payments.

The Commission divided the participants in APCA into three categories:

- (a) operators of payment schemes in Australia, being Visa, MasterCard, American Express, eftpos, BPAY and Austraclear;
- (b) banking and credit service providers, including all Major Australian Banks, many smaller Australian banks and credit unions, and a number of internationally based banks with a presence in Australia; and
- (c) Woolworths Group Limited participating as a credit card issuer and interested party.

The Commission found that the conduct for which authorisation was sought involved the following payment systems participants:

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<sup>144</sup> Please see ACCC, 'Determination: Applications for authorisation lodged by NPP Australia Limited in respect of certain provisions of the New Payments Platform Regulations – Authorisation number: A91560 – A91562', 5 April 2017– annexed as **Annexure 29**.

- (a) Payment scheme: A network that allows for payment information to be exchanged between financial institutions (eg the Visa, MasterCard and American Express networks, eftpos' network, BPAY, PayPal);
- (b) Credit/debit cards, eftpos cards and multi-network cards:
  - i) Credit card providers, such as Visa and MasterCard, which typically offer credit cards that come with a credit facility from which the consumer can borrow. Transactions on these cards are communicated through the credit card's payment scheme (eg the Visa network);
  - ii) Credit card providers also provide debit cards, which do not come with a credit facility but simply link to the consumer's savings account. As with credit cards, transactions on these cards are communicated through the card's payment scheme (eg the Visa network);
  - iii) eftpos cards operate similarly to a debit card, linking directly to the consumer's savings (or cheque) account. However, eftpos cards use the eftpos network for communicating transactions; and
  - iv) Multi-network cards are cards that can use two networks. Typically, multi-network cards combine an ICS card and an eftpos card where eftpos debit rails are an option on ICS debit and credit cards. At physical retailers, consumers with multi-network cards can choose whether to use the ICS network (by selecting "Credit") or the eftpos network (by selecting "Savings" or "Cheque").
- (c) Issuer: A credit/debit/eftpos card issuer (usually a bank), which provides consumers with a card associated with one of the payment schemes (eg Visa);
- (d) Acquirer: A financial institution (usually a bank) that offers merchants the service of receiving and processing credit/debit card payments. Not all acquirers are able to accept payments from all payment schemes (eg some acquiring banks do not accept payments on the American Express network, which is why retailers cannot accept those cards at checkout);
- (e) Access Control Server: Access control servers are provided by specialist third parties. Under the proposed conduct, each issuer will be required to engage an access control server provider. Access control server providers have two main functions regarding the proposed conduct:
  - i) they run the 3D Secure protocol and make fraud risk decisions on behalf of the card issuer; and
  - ii) they facilitate communication between the merchant's website and the card issuer, so that verification information.

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## 24 Market Definition – Expert's Report

Dr Geoff Edwards has provided an economic expert report which sets out his expert opinion of the markets relevant to the Commission's assessment of the Conduct. Dr Edwards' confidential report is annexed to this Application as **Confidential Annexure 46**.

## 25 Markets affected by the Conduct

Having regard to the Commission's previous decisions, this chapter identifies the markets which may be affected by the Conduct, taking a purposive approach based on the infrastructure owned and the services supplied by each of BPAY Opco, eftpos and NPPA.

We proceed on the basis that the geographic boundary of each of the affected markets is Australia-wide.

The Applicants submit that there is no need for the Commission to reach any conclusions about the precise boundaries of the affected markets because, irrespective of how the affected markets are defined, the Conduct will not have the effect, and will not be likely to have the effect, of substantially lessening competition in any market irrespective of the counterfactual scenario preferred or used to make the assessment.

The Applicants note that the BPAY figures referenced below are actuals and forecasts provided by BPAY, and the NPP figures and RBA figures included below are up to FY20. Mr Lance Sinclair Blockley has provided an industry expert report which provides market share actuals and forecasts from FY21 to FY25 for each of the markets detailed below. Mr Blockley's confidential report is annexed to this Application as **Confidential Annexure 47**.

### 25.1 Upstream infrastructure

At the upstream level, there is likely to be a market or markets for authorisation and clearing infrastructure for low value payments, which includes eftpos' "hub" authorisation and clearing infrastructure, NPPA's authorisation and clearing infrastructure and BPAY Holdco's clearing infrastructure (BPAY payments do not require authorisation as they are "push" credit payments and therefore already authorised by the payer's bank).

The ICS are significant participants in this market.

"Authorisation and clearing" refers to the processes by which financial institutions check whether there are sufficient funds in the account from which funds will be withdrawn and clear the withdrawal and/or deposit of those funds.

"Settlement" is a separate and related process where money is moved from one account to another, between two banks or between a bank and a merchant. The infrastructure that is used to settle payments, which is owned by the RBA, is not part of the market/s for authorisation and clearing of low value payments<sup>145</sup>

It is possible that there is a single upstream market for authorising and clearing low value payments or that there may be separate upstream markets – eg one for card-based or retail payments and another for direct A2A payments. However, having regard to the approach taken by the ACCC in the context of NPPA's application for authorisation of the NPP's regulations, the Applicants submit that there may be no useful distinction to be made in this regard and that the effects of the proposed amalgamation may be assessed adequately in a single market for authorisation and clearing infrastructure for low value payments.

<sup>145</sup> In the ACCC Determination ([Authorisation Number: AA1000495](#)), on the application by AusPayNet IAC in respect of the certification, suspension, and termination provisions of the Issuers and Acquirers Community Regulations and Code Set, the ACCC considered relevant area of competition the 'clearing and settlement of consumer electronic payments', 10 July 2020.

## 25.2 Estimated shares of upstream infrastructure for low value payments

The **Confidential Exhibit 20** and **Confidential Exhibit 21** below present estimates of shares of authorisation and clearing infrastructures for low value payments by volume and value between 2011 and 2020.

As can be seen below, card scheme infrastructures together have a large share of payments in volume terms but only a small share in value terms, as most card scheme payments are small value retail POS payments while most DE payments are non-retail and larger value.

### Confidential Exhibit 20: Authorisation and clearing of low value payments – by volume

[Confidential to the Parties]

YEAR ENDING JUNE	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Direct Entry System										
BPAY										
New Payments Platform										
Credit Card Schemes										
<i>Visa/Mastercard</i>										
<i>Amex/Diners</i>										
Debit Card Schemes										
<i>Visa/Mastercard</i>										
<i>eftpos</i>										
Cheques										
Cash										
<b>Total</b>										
<b>NewCo Share</b>										
<b>Amalgamation Increment</b>										

### Confidential Exhibit 21: Authorisation and clearing of low value payments – by value

[Confidential to the Parties]



YEAR ENDING JUNE	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Direct Entry System										
BPAY										
New Payments Platform										
Credit Card Schemes										
<i>Visa/Mastercard</i>										
<i>Amex/Diners</i>										
Debit Card Schemes										
<i>Visa/Mastercard</i>										
<i>eftpos</i>										
Cheques										
Cash										
<b>Total</b>										
<b>NewCo Share</b>										
<b>Amalgamation Increment</b>										

As can be seen from **Confidential Exhibit 20** and **Confidential Exhibit 21** above, DE accounts for the majority of authorising and clearing low value payments by value.

By volume, as at FY2020, the Conduct will create an entity (NewCo) with approximately 16% share with an incremental change of only approximately 5%. By value, NewCo would have a share of approximately 7%, with an incremental change of only approximately 4%.

As noted above, over time, more and more payments authorised and cleared in DE are likely to migrate to NPPA as the NPP develops services for bulk credits (eg payroll and government disbursements) and direct debits. However, the transfer of those payments from DE to NPPA will not be related to the Conduct and will occur irrespective of the Conduct.

### 25.3 Downstream markets for payment schemes / services

Downstream of the infrastructure, payment schemes/services are supplied to financial institutions or directly to merchants and persons by the Applicants and other entities.

Based on the services supplied, and likely to be supplied, by each of BPAY Holdco, eftpos and NPPA, there may be a number of downstream markets for payment schemes / services that are layered over the upstream infrastructure market/s. The Applicants have not yet reached a view on the boundaries of these markets, but the following are possible markets or sub-markets:

- (a) **In-store (or POS) retail payments.** The Applicants are active competitors in this segment primarily in the form of eftpos with card-based services (card present and mobile tokens). In addition, there may be a very small number of POS payments in-store (at very small merchants) using BPAY's Osko service, eftpos' Beem It and NPPA's SCT. NPPA's MPS service is a potential future payment method in this possible market and along with Beem It, may grow in this segment if QR technology becomes established among merchants. Other participants in this market comprise the ICS and A2A apps on mobiles such as AliPay and WeChat Pay. Cash and cheques are further alternatives for in-store retail payments. Note that payments made online for purchases in-store (eg Woolworths' "Scan and Go" in-app service) are not included in this segment.
- (b) **Online (or remote) retail payments.** This potential market includes both P2B "guest checkout" type services and irregular P2B recurring payments such as in-app payments (such as Uber payments) and online stored detail payments (including payments made online for purchases in-store, such as using Woolworths' "Scan and Go" service). The main competitors in this market are the ICS and A2A online services such as PayPal. The payment entities are only very marginally active in this market. For example, small volumes of BPAY payments (eg Qantas flights can be paid using BPAY) and small volumes using BPAY's Osko and the NPPA's SCT (eg Azupay), but have plans to increase their presence with eftpos Beem It, eftpos digital (including "card on file" for recurring payments, which is live, but without universal take up) and the NPP's planned MPS service. BPAY's Osko service 3 "request to pay" would also be able to be used for online retail payments, should it be rolled out. eftpos deposit and withdrawal message set, recently launched, can also be used to facilitate these payments.
- (c) **Bill (or invoice) payments.** This segment includes regular in-app as well as other subscription payments (e.g. Netflix monthly subscriptions). The competitors in this market include direct credit and direct debit over DE, BPAY (with its BPAY and Osko services), NPPA (with its SCT service and likely in the future with its MPS), PayPal and the ICS. Australia Post also offers a service for bill payments using cash or cheques over the counter at post offices.
- (d) **P2P payments.** The competitors in this segment include direct credit over DE, BPAY with its Osko service and NPPA with SCT and to a lesser extent by volume, eftpos with its Beem It app service. Cash and cheques are other alternatives for P2P payments.
- (e) **B2P and G2P payments.** The competitors in this segment of payments include direct credit over DE, NPPA with SCT and BPAY's Osko service. B2P and G2P payments are also made using cash and cheques.

#### 25.4 Estimated shares in in-store (or POS) retail payments

**Confidential Exhibits 22 and 23** differ from the shares presented in the expert industry opinion of Mr Lance Blockley because eftpos' actual data has been used in the exhibits below. These exhibits below, demonstrate:

- (a) A steady share of credit card schemes;

- (b) A rise in the share of debit card schemes, with a strong rise in the share of Visa and Mastercard and a marked initial decline of eftpos' share from 2013 until 2019, due to contactless transactions being introduced before LCR. However, eftpos has arrested the decline and increased its share in FY2020 to 18%, largely through LCR;
- (c) The dominance of the ICS, with a combined share across credit and debit cards of 56% by volume and 57% by value in 2020; and
- (d) A share for NewCo of 18% (by volume) in FY2020, and an absence of any substantial overlap between the three payment schemes. Indeed, there is no material increment associated with the proposed amalgamation because the NPP and BPAY (via Osko) are very small in this segment.

**Confidential Exhibit 22: in-store (or POS) retail payments – by volume**

[Confidential to the Parties]

YEAR ENDING JUNE	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Credit Card Schemes										
Debit Card Schemes										
Visa/Mastercard										
eftpos										
Cash										
Cheques										
Beem It										
NPP (PayID)										
SCT										
Osko										
Other A2A (e.g. AliPay; WeChat Pay)										
<b>Total</b>										
<b>NewCo</b>										
<b>Amalgamation Increment</b>										

## Confidential Exhibit 23: in-store (or POS) retail payments – by value

[Confidential to the Parties]

YEAR ENDING JUNE	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Credit Card Schemes	23–33%	24–34%	23–33%	23–33%	24–34%	23–33%	24–34%	24–34%	17–27%	15–25%
Debit Card Schemes	28–38%	30–40%	32–42%	34–44%	35–45%	37–47%	40–50%	44–54%	51–61%	60–70%
Visa/Mastercard	0–10%	0–10%	1–11%	3–13%	5–15%	8–18%	14–24%	21–31%	29–39%	32–42%
eftpos	26–36%	27–37%	26–36%	26–36%	25–35%	24–34%	21–31%	18–28%	17–27%	22–32%
Cash	33–43%	31–41%	30–40%	28–38%	26–36%	25–35%	21–31%	17–27%	16–26%	10–20%
Cheques	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%
Beem It								0–10%	0–10%	0–10%
NPP (PayID)	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%
SCT									0–10%	0–10%
Osko									0–10%	0–10%
Other A2A (e.g. AliPay; WeChat Pay)	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%
<b>NewCo</b>	26–36%	27–37%	26–36%	26–36%	25–35%	24–34%	21–31%	18–28%	17–27%	22–32%
<b>Amalgamation Increment</b>	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%

## 25.5 Estimated shares in online (or remote) retail payments

**Confidential Exhibit 24** and **Confidential Exhibit 25** below differ from the shares presented in the expert industry opinion of Mr Lance Blockley because eftpos' actual data has been used in the exhibits below. These exhibits demonstrate:

The ICS have very large shares in this possible segment of payments (around 89% by volume and 85% by value).

The three domestic payment schemes are only present in this market to a very minor extent (NewCo's share in FY2020 would have been less than 1%), with a

small number of online payments via BPAY (eg some payments for Qantas air tickets), a very small share for eftpos (recently launched “card on file” for recurring payments/subscriptions) and only a small number of payments over the NPP via BPAY’s Osko service or the NPPA’s SCT service (eg Azupay payments). In the future, eftpos’ Beem It and NPP’s MPS service are expected to gain share in this market.

**Confidential Exhibit 24: Online (or remote) retail payments – by Volume**

[Confidential to the Parties]

YEAR ENDING JUNE	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Credit Card Schemes										
Debit Card Schemes										
Visa/Mastercard										
eftpos										
BPAY										
NPP (e.g AzuPay & MPS)										
SCT										
Osko										
Other A2A (e.g. PayPal from bank acct)										
Other (e.g. Poli, gift cards)										
<b>Total</b>										
<b>NewCo</b>										
<b>Amalgamation Increment</b>										

**Confidential Exhibit 25: Online (or remote) retail payments – by value**

[Confidential to the Parties]

YEAR ENDING JUNE	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Credit Card Schemes										
Debit Card Schemes										

YEAR ENDING JUNE	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Visa/Mastercard										
eftpos										
BPAY										
NPP (e.g. AzuPay & MPS)										
SCT										
Osko										
Other A2A (e.g. PayPal from bank acct)										
Other (e.g. Poli, gift cards)										
<b>Total</b>										
<b>NewCo</b>										
<b>Amalgamation Increment</b>										

**25.6 Estimated market shares in bill (or invoice) payments**

Bill payments can be B2B or P2B.

The Applicants provide estimates of the shares of P2B and B2B bill payments by volume in the confidential exhibit below.

As can be seen from the estimates in the confidential exhibit, BPAY’s share of bill payments by volume is 8% to 18% (comprising BPAY with 5% to 15% and BPAY’s Osko with 0% to 10%) and NPPA’s share is 0% to 10%. The BPAY Payments service is now available via eftpos’ Beem It app.

Consequently, the Conduct will result in NewCo’s subsidiaries accounting for approximately 9% to 19% of P2B and B2B bill payments, with an incremental change to the concentration of suppliers in this possible market of only approximately 1%. DE accounts for the largest share – approximately 55% to 65%, followed by the ICS with 15% to 25% (across credit and debit cards).

The Applicants’ observation above about the proposed migration of DE’s payments to NPPA applies equally to this market.

**Confidential Exhibit 26: Bill (or invoice) payments (P2B & B2B) – by volume**

[Confidential to BPAY]

YEAR	2013	2014	2015	2016	2017	2018	2019	2020
BPAY (including on-us)	7–17%	7–17%	7–17%	7–17%	7–17%	6–16%	6–16%	5–15%

YEAR	2013	2014	2015	2016	2017	2018	2019	2020
NPP	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%
SCT							0–10%	0–10%
Osko							0–10%	0–10%
Direct Entry	50–60%	52–62%	54–64%	56–66%	58–68%	58–68%	57–67%	55–65%
Direct Debit	21–31%	22–32%	23–33%	24–34%	25–35%	25–35%	25–35%	23–33%
Direct Credit	24–34%	25–35%	26–36%	27–37%	28–38%	28–38%	28–38%	27–37%
Credit Card Schemes	4–14%	5–15%	5–15%	6–16%	7–17%	7–17%	7–17%	7–17%
Debit Card Schemes	4–14%	4–14%	3–13%	3–13%	3–13%	3–13%	3–13%	3–13%
Visa/Mastercard	2–12%	2–12%	2–12%	2–12%	2–12%	3–13%	3–13%	3–13%
eftpos	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%
Cheque	2–12%	1–11%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%
Cash	3–13%	2–12%	1–11%	0–10%	0–10%	0–10%	0–10%	0–10%
NewCo	9–19%	9–19%	8–18%	8–18%	7–17%	7–17%	8–18%	9–19%
Amalgamation Increment	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%	0–10%

## 25.7 Estimated shares in P2P payments and B2P/G2P payments

BPAY's Osko service and NPPA's SCT service are growing in these two segments as banks transition to them away from direct credits (the DE system).

eftpos' Beem It service is also present the P2P segment, but with a de minimis share.

The following **Confidential Exhibit 27** and **Confidential Exhibit 28** present estimates of volume shares of P2P payments and B2P/G2P payments for the year ending June 2020.

The estimates indicate that the Conduct would not materially increase the level of concentration within either of these possible markets.

In P2P payments, the incremental increase of NewCo's market share is estimated to be only 2%.

In B2P/G2P payments, NewCo's subsidiaries will only for approximately 5% by volume and the incremental change is only 1%. DE accounts for approximately 87%.

## Confidential Exhibit 27: P2P payments – by volume

[Confidential to the Parties]

Year ending June 2020	Volume	%Share
NPP – all Osko		35–45%
Direct Entry		5–15%
Cash		41–51%
Cheque		0–10%
BeemIt (estimate)		0–10%
Other non-bank mobile apps (e.g. Visa Send)		0–10%
<b>NewCo</b>		36–46%
<b>Amalgamation Increment</b>		0–10%

## Confidential Exhibit 28: B2P/G2P payments – by volume

[Confidential to the Parties]

YEAR ENDING JUN2 020	Volume (Millions)	Shares %
Payment Method		
BPAY		
NPP		
<i>Osko</i>		
<i>SCT</i>		
Direct Entry		
Credit Card Schemes		
Debit Card Schemes		
<i>eftpos</i>		
<i>International Card Schemes</i>		
Cheque		
Cash		
Other (BeemIt, Paypal, Visa Send, etc)		
<b>Total</b>		



YEAR ENDING JUN2 020	Volume (Millions)	Shares %
NewCo		
Amalgamation Increment		

## 26 The Conduct's likely effects on competition

### 26.1 No substantial effect on market concentration

The three payments systems currently own and operate largely complementary assets and do not offer closely substitutable services – eftpos' core service is debit card payments at the POS; BPAY's core services are a bill payment service and Osko for fast payments over NPPA's infrastructure, and NPPA's core service is fast A2A payments.

The preceding section set out estimated shares in six possible markets (or sub-markets) affected by the Conduct.

Market concentration can help to determine whether a merger is likely to result in unilateral and/or coordinated effects. It is, nonetheless, the link between concentration and the strength of competition that is important for merger analysis, which ultimately requires consideration of all relevant factors before a final conclusion can be reached.<sup>146</sup>

As is evident from section 25 above, the Conduct will not have a substantial effect on the concentration of suppliers in any of those markets:

- (a) In the possible upstream market for authorising and clearing low value payments, the Conduct will result in NewCo's subsidiaries accounting for approximately 16% of the market by volume and 7% by value currently although as all payments require authorising, clearing and settlement, both the volume and value passing through NewCo will increase significantly over time, with an incremental change in the concentration of suppliers of approximately 4% to 5%.
- (b) In the possible downstream market for in-store (or POS) retail payments, there is no material overlap between BPAY, eftpos and NPPA and eftpos' share has declined markedly through to 2018 despite stability in terms of absolute volume but since stabilised and is growing as it access new form factors and use cases. There is negligible (less than 1%) incremental market share accretion in this space.
- (c) In the possible downstream market for online (or remote) retail payments, there is no current material overlap between BPAY, eftpos and NPPA, although each entity is targeting this area of large potential growth. There is negligible (less than 1%) market share accretion in this space.
- (d) In the possible downstream market for bill (or invoice payments), the Conduct will result in NewCo's subsidiaries accounting for approximately 9% to 19% of the market, with an incremental change in the concentration of suppliers of approximately 1%.

<sup>146</sup> ACCC *Merger Guidelines*, November 2017, Section 7, especially at 7.6.

- (e) In P2P payments, the incremental increase of NewCo's market share is only 2%. In B2P/G2P payments, NewCo's subsidiaries will only account for approximately 5% by volume and the incremental change to the concentration of suppliers (NewCo) is only 1%.

In summary, the Conduct will involve either no change in concentration or only incremental changes in concentration of suppliers of less than 5% and will not result in NewCo's subsidiaries accounting for more than 16% and in most cases, substantially less. NewCo incremental share accretion in the P2P segment is negligible at 2%.

These increases in concentration would not normally be considered to amount to a substantial lessening in competition.

Based on the confidential counterfactual scenarios, some amalgamation of the Australian payments schemes is likely, further mitigating the effects of any increase in market concentration resulting from the Conduct.

Further, for the reasons set out below, the Conduct will not result in any loss to future effective or meaningful competition between BPAY Opco, eftpos or NPPA.

## 26.2 Preservation of existing strategic roadmaps

The Conduct will involve a commitment by the three Schemes to conduct their business in the ordinary course and substantially in the same manner as previously conducted or in accordance with the existing strategic roadmaps of each of the three schemes to June 2022.<sup>147</sup>

The Conduct will not result in the removal of any existing strategic initiative, subject to rights of users of the scheme pursuant to their redeemable preference shares described in section 7.3 above.

A brief summary of each of the three payment schemes' current roadmaps is set out below.

### (a) BPAY

[Confidential to BPAY]<sup>148</sup>

### (b) eftpos

[Confidential to eftpos]<sup>149</sup>

### (c) NPPA

Please see section 13.11 above.

## 26.3 Continuation of open and non-discriminatory access to the services of BPAY Holdco, eftpos and NPPA

NewCo will not itself be providing any of the Payment Services.

<sup>147</sup> Please see section 7.2 of the Confidential Implementation Agreement, 10 December 2020 – annexed as **Confidential Annexure 2**.

<sup>148</sup> Please see [Confidential to BPAY].

<sup>149</sup> [Confidential to eftpos].

The participation in, and use of, each of the Payment Services will continue to be governed by the governing rules of BPAY Opco, eftpos and NPPA, such that:

- (a) participation in the BPAY Scheme is not based on ownership;
- (b) the eftpos payment system will continue as an open access system; and
- (c) the NPP's open access options will continue.

Where some of the terms for the governance of a Payment Service are contained in the Constitution of the relevant OpCo, the relevant governing rules will be amended to incorporate those terms. In the case of each of eftpos and NPPA, this will require them to amend their respective Constitutions and governing rules.

The governing rules, and the processes and commitments made under them (such as compliance schedules, mandates, rebates) will continue to apply.

Any future arrangements made relating to a Payment Service will need to be made in accordance with the applicable governing rules for that Service, as is the case today.

#### **26.4 Removal of the need for participants to become a shareholder or member of eftpos or NPPA**

##### **(a) eftpos**

The current requirement for a participant to be an eftpos Member or sponsored into eftpos by an eftpos Member will be removed as a result of the Conduct, although the option for a participant to be a NewCo shareholder or sponsored in by a NewCo shareholder will be retained as options for participation.

eftpos' scheme rules are being re-written to accommodate the Conduct. Under current scheme rules, participants can be direct or indirect clearers, connectors, members, settlers as well as intermediaries providing services to any of them. That flexibility of access is intended to be retained.

##### **(b) NPPA**

The current requirement to be a shareholder of NPPA in order to connect directly to the NPP for clearing and settlement will be removed as a result of the Conduct.

Participation criteria for direct connection to the NPP for clearing and settlement, such as the requirement to be an ADI, will be unchanged.

Participation criteria for direct connection to the NPP for payment initiation, which is the criteria to be a Connected Institution, will not be affected by the changes.<sup>150</sup>

#### **26.5 Protections from class voting rights in governance**

Each of the three schemes will operate with the protection of the redeemable preference shares described in detail at section 7.3 above.

<sup>150</sup> Any organisation that wishes to become a Connected Institution is currently not required to be a shareholder of NPPA or to be an ADI.

The classes of redeemable preference shares will allow users of each Payment Service to prevent specified types of fundamental changes to the Payment Service.

If NewCo's board were to make a decision which would result in one of the following fundamental changes to a Payment Service:

- (a) Changing the nature, scale, or operation of a Payment Service;
- (b) Ceasing to provide the Payment Service;
- (c) Changing the manner of funding the operating costs of providing a Payment Service (including any requirement for particular shareholders to fund new investment in the Service) or the manner in which funds generated by a payment service are utilised (including the use of funds generated by a payment service for investment in another service); or
- (d) Changing the agreed roadmap to June 2022 for the development of the Payment Service; or
- (e) Changing the agreed roadmap to June 2022 for the development of the Payment Service,

then any two directors will be able to call for the decision to be ratified by an extraordinary resolution (75%) of the shareholders who are participants in that Payment Service at the time.

For example, if a decision were to be made to change the manner of funding the operating costs of eftpos, then any two directors will be able to call for the decision to be ratified by an extraordinary resolution (75%) of the shareholders who use eftpos' Payment Service to vote in favour of the resolution before it could be passed.

NewCo's governance arrangements will allow users of each Payment Service who are shareholders of NewCo to determine the destiny of the Payment Service and offer comprehensive protections for each of the three payment schemes as they currently exist.

## **26.6 Removing inefficiencies from the investment decision-making process**

The three payments schemes currently own and operate largely complementary assets and do not offer closely substitutable services. BPAY's core services are a bill payment service and Osko for fast payments over NPPA's infrastructure, eftpos' core service is debit card payments at the point of sale and NPPA's core service is fast A2A payments.

As payment mechanisms and habits have changed (in particular by reason of the move to digitalisation and e-commerce), some marginal competition has occurred between the Payment Services.

The current market structure, in which BPAY, eftpos and NPPA each operate as separate companies, has given rise to inefficiencies, as each company seeks to attract banks' support for their respective innovations.

There is a degree of overlap between these innovations. For example, BPAY's request to pay service, eftpos' card on file service and NPPA's MPS overlap to some extent because they offer solutions for recurring P2B payments, although the main targets of each differ. BPAY's request to pay service targets a broad range of customers including billers who want to request that payments be "pushed" to them by customers, small businesses and P2P; for eftpos' card on

file service, the main target is recurring in-app payments currently dominated by Visa and Mastercard, and for NPPA's MPS, the main target is billers who want authorisation from customers to "pull" payments from their accounts on a regular basis (a service currently provided by direct debits over the DE system).

Marginal competition has not, however, resulted in improved prices and/or services for their customers (financial institutions) or end-users (businesses and consumers) or any other beneficial effect for consumers.

Rather, the current market structure has resulted in:

- (a) Increased transaction costs for customers.
- (b) Delays in the development of innovations within financial institutions which, in turn, have prevented the innovations from achieving the network effects and ubiquity needed for success.
- (c) Impairments from stranded assets, as has occurred with BPAY's Osko 3 (request to pay services).

The Conduct's primary effect will be to remove or reduce these inefficiencies from the investment decision-making process through which innovations will be launched by Australia's payment schemes. This will enhance competition among payment services.

These inefficiencies can be understood as a species of market failure arising from incomplete information, of the kind that arises where consumers do not have accurate information about the market prices or product quality, such that producers have an incentive to supply too much of some products and too little of others.<sup>151</sup>

## 26.7 Markets served by the three schemes are dynamic

The markets served by the three schemes are dynamic. For example, utilisation of cash in transactions has declined and this has been exacerbated by the COVID-19 pandemic. For example, the percentage of transactions using cash in 2010 was 62% and this has steadily declined to 37% in 2016 and 27% in 2019.<sup>152</sup>

Conversely, there has been a steady increase in the use of cards (particularly debit cards) in transactions and the percentage of transactions using cards has increased from 31% in 2010 to 52% in 2016 and 63% in 2019.<sup>153</sup> Recent trends also include a dramatic uptick in contactless as a percentage of card POS payments, which has increased from a negligible level in 2010 to 67% in 2016 and 84% in 2019.<sup>154</sup>

These dynamic factors are a further reason why the Conduct will not be likely to have the effect of substantially lessening competition in any market.

<sup>151</sup> R Pindyck and D Rubinfeld *Microeconomics* (9<sup>th</sup> edition) (Pearson, 2018) at p 611.

<sup>152</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 4 – annexed as **Confidential Annexure 1**.

<sup>153</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 4 – annexed as **Confidential Annexure 1**.

<sup>154</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure A – Industry Committee Full Compendium (including summary of proposal to merge BPAY, eftpos and NPP), page 4 – annexed as **Confidential Annexure 1**.

## 26.8 Increase in effective innovations

The Conduct will enhance competition by allowing innovations to achieve the necessary ubiquity and network effects faster and more assuredly than in any of the likely confidential counterfactual scenarios.

This effect is dealt with in further detail in section 27 below entitled The Conduct's likely public benefits.

## 26.9 Ensuring eftpos continues as a pricing wedge against the ICS

The Conduct will ensure eftpos continues to play a critical role as a pricing wedge against the ICS, by providing an alternative to the ICS.

In the speech delivered by the Governor of the RBA about innovation and regulation in the Australian Payments System,<sup>155</sup> the Governor made the following observation:

*"The second issue is dual-network debit cards and least-cost routing.*

*The Board has long held the position that merchants should have the freedom and the capability to route debit card transactions through the lower-cost network. The Government and a wide range of stakeholders have a similar view. It is understandable why: this choice promotes competition and helps keep downward pressure on the cost of goods and services for consumers.*

*Over recent years, the Board has discussed the right balance between regulation and suasion to achieve this outcome. Its judgement has been that the best approach was for the industry itself to support least-cost routing, pushed along by pressure from the RBA. While progress has been slower than we would have liked, the slow progress by the major banks did create competitive openings for other players, which led to some innovation. The major banks now also all offer least-cost routing, with some making it the default offering for small and medium-sized businesses. So there has been significant progress. The Board is not convinced that a better outcome would have been achieved through regulation.*

*The concept of least-cost routing is most applicable when a physical card is used and where that card has two networks on it. One recent trend that we have observed is that some issuers have sought to move away from dual-network debit cards to issue single-network cards, with no eftpos functionality. This may be partly in response to financial incentives from the international schemes and possibly the additional costs to issuers from supporting two networks on a card.*

*Notwithstanding this trend, the Board's view is that it is in the public interest for dual-network cards to continue and to be the main form of debit card issued in Australia. It is also important that acquirers and other payment providers offer or support least-cost routing and that the schemes do not act in a way that inappropriately discourages merchants from adopting least-cost routing."*

## 26.10 Growing competition from international payment companies

The Conduct will result in greater competition with international payment companies, including the ICS and technology companies (such as, Apple Pay,

<sup>155</sup> Please see Philip Lowe, Speech – 'Innovation and Regulation in the Australian Payments System', 7 December 2020, page 6 – annexed as **Annexure 5**.

Google Pay and Samsung Pay) which are entering and expanding their offerings within the payments landscape in Australia. Those global companies will continue to exercise a powerful competitive constraint in Australia's payments landscape.

## 26.11 Enhancing the ownership interests and governance rights of smaller participants and retailers

Each of NewCo's 21 shareholders will have one vote, of equal weighting, at General Meetings of NewCo's shareholders irrespective of the size of their shareholding in NewCo.

Consequently, the Conduct will:

- (a) Enhance the involvement of smaller participants (including non-ADIs) as well as retailers, in the future of Australia's three payment schemes, including which innovations are prioritised for investment.
- (b) Result in the Major Australian Banks relinquishing control of BPAY Holdco (in which they control 100% of shareholder votes), eftpos (in which their voting rights are determined by reference to their scheme volumes, relative to other members, and, as a result, the Major Australian Banks currently control [Confidential to eftpos]) and NPPA (in which they control 76% of shareholder votes).

NewCo will have a board of 13 directors.

NewCo's 13 directors will comprise:

- (a) Four independent directors (including the independent chairperson); and
- (b) Nine directors nominated by NewCo's shareholders.

Of the nine directors nominated by NewCo's shareholders:

- (a) Three will be nominated by shareholders who each hold less than 15% of NewCo's shares and who are not ADIs;
- (b) Another two will be nominated by shareholders who each hold less than 15% of NewCo's shares and who are smaller ADIs; and
- (c) The remaining four directors will be nominated by shareholders who each hold more than 15% of NewCo's shares and who are major ADIs (one of the Major Australian Banks).

Each director will have one vote.

All decisions of NewCo's board will require the vote of a simple majority of the directors present and entitled to vote. As each director will only have one vote and no more than four of NewCo's 13 directors will be nominees of the Major Australian Banks, the directors of the Major Australian Banks will not constitute a simple majority of the Board.<sup>156</sup>

## 26.12 No increase in barriers to entry or expansion

- (a) The Conduct will not increase barriers to entry or expansion in Australian payments markets.

- (b) It will not result in any changes to the regulatory barriers to entry to Australian payments markets described in **Schedule 4 – Regulation by the RBA and PSB**.
- (c) It will not prevent any of three payment schemes from executing their existing strategic roadmaps to June 2022, including their plans to expand, because each of their strategic roadmaps is preserved to June 2022.

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## 27 The Conduct’s likely public benefits

### 27.1 Meaning of public benefit

The Australian Competition Tribunal has defined “public benefit” as:

*Anything of value to the community generally, any contribution to the aims pursued by society including as one of its principal elements (in the context of trade practices legislation), the achievement of economic goals of efficiency and progress.*<sup>157</sup>

It is well established that a benefit does not have to accrue to the whole or even the majority of the Australian public to qualify as a public benefit.<sup>158</sup> In *Re Howard Smith Industries Pty Ltd*,<sup>159</sup> the Tribunal said:

*The Tribunal has to determine what constitutes “the public” in order to assess whether there is likely to be a substantial benefit to the public from a proposed merger. It is not simply the public as consumers. If a merger is likely to result in the achievement of economies of scale and a considerable saving in the cost of supplying goods or services this might constitute a substantial benefit to the public, even though the cost saving is not passed on to the consumers in the form of lower prices. Nevertheless, if such a merger benefited only a small number of shareholders of the applicant corporations through higher profits and dividends this might be given less weight by the Tribunal, because the benefits are not being spread widely among members of the community generally.*

The Commission, in *Re ACI Operations Pty Ltd*,<sup>160</sup> submitted that the following matters could, in its opinion and amongst other matters, constitute a public benefit:

- (a) economic development, such as encouragement of research and capital investment;
- (b) fostering business efficiency, particularly where it results in improved international competitiveness;
- (c) improvement in the quality and safety of services of goods and services and expansion of consumer choice;
- (d) development of import replacements;

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<sup>157</sup> *Re Queensland Co-operative Milling Association Ltd* (1976) 25 FLR 169.

<sup>158</sup> See for example, *Re Qantas Airways Limited* [2004] ACompT 9.

<sup>159</sup> (1977) 28 FLR 385.

<sup>160</sup> (1991) ATPR (Com) 50-108.



- (e) promotion of industry cost savings, resulting in contained or lower prices at all levels in the supply chain.

## 27.2 Overview of likely public benefits

When compared to the likely counterfactual scenario/s, the Conduct is expected to deliver the following benefits to Australian consumers, businesses (both small and large) and other members of the Australian public by:

- (a) Enhanced ownership interests of smaller participants, including non-ADIs, and non-bank acquirers.
- (b) Enhanced voting rights of smaller participants, including non-ADIs, and non-bank acquirers.
- (c) Enhanced engagement with small businesses and other participants in the Australian payments' ecosystem.
- (d) Reduction in uncertainty allowing for more efficient deployment of capital, sooner.
- (e) Enhanced speed to market of innovations developed by Australia's three payment schemes.
- (f) Increased likelihood of hybrid and targeted local innovations.
- (g) Reduction in the risk of stranded payments assets from innovations which fail to achieve network effects and ubiquity (both necessary for their success) in a timely way.
- (h) Reduction in transaction costs for the three Payments Schemes and their Scheme Members.
- (i) Greater import substitution.
- (j) Creation of policy benefits (including sovereignty over Australia's payments systems) and support for the Australian Government policy objective to ensure Australia is a leading digital economy by 2030.<sup>161</sup>
- (k) Increased ease for third parties to develop more payments innovation by allowing them to access A2A and cards infrastructure through a single commercial entry point with clearer connection points to the schemes and harmonised standards, including technology standards.
- (l) Potential for synergies.
- (m) Over time, the potential to:
  - i) minimise the regulatory burden associated with complying with three separate sets of compliance obligations; and
  - ii) adopt common standards across the three payment systems.

## 27.3 Enhanced ownership interests of smaller participants, including non-ADIs and nonbank acquirers

As can be seen from the **Confidential Exhibit 2** in section 6.6, in terms of the percentage of votes that could be cast at a General Meeting of NewCo's

<sup>161</sup> <https://pmc.gov.au/domestic-policy/digital-technology-taskforce>.

shareholders, the Conduct will result in Coles and Woolworths accounting for [Confidential to the Parties]% of the voting rights, the Major Australian Banks accounting for [Confidential to the Parties]% of the voting rights, other ADIs accounting for [Confidential to the Parties]% of the voting rights and non-ADIs accounting for [Confidential to the Parties]% of the voting rights. This is in contrast to the status quo and the likely counterfactual, where the Major Australian Banks control voting in each of the three payments schemes.

#### 27.4 Enhanced voting rights of smaller participants and retailers

NewCo's governance arrangements will enhance the influence of smaller participants, including non-ADIs, and retailers over the three domestic payments systems.

The manner in which each group of shareholders will select their nominee directors for NewCo's board is to be determined by that group. Nominees need not be associated with or employed by the shareholders in the shareholder group nominating them.<sup>162</sup>

Each Director will have one vote and, in instances where there is an equal number of votes for or against a question, the Independent Chair of NewCo will have the casting vote.

The Directors of NewCo's board will be responsible for managing NewCo's business.<sup>163</sup> Accordingly, the Directors will be responsible for determining NewCo's annual budget, NewCo's business plans (including its product development roadmap and payment service offerings) and the appointment of senior management (including the Chief Executive Officer).

As these decisions will be decided by a simple majority of votes of NewCo's Directors,<sup>164</sup> the Major Australian Banks, individually or when taken together, will not be able to control any of the decisions of NewCo's board.

In addition, if, in the opinion of a Director, a decision made by the Directors would result in a fundamental change in:

- (a) the nature, scale or operation of a Payment Service, or is a proposal to cease providing a Payment Service; or
- (b) the manner of funding the operating costs of providing a Payment Service (including any requirement for particular Members to fund new investment) or the manner in which funds generated by a Payment Service are utilised (including the use of funds generated by a Payment Service for investment in another payment service); or
- (c) the roadmap agreed for the development of "Prescribed Services", to the extent it relates to a Payment Service,

<sup>162</sup> The Chair of NewCo's board may assist if necessary.

<sup>163</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution clause 9.1 – annexed as **Confidential Annexure 2**.

<sup>164</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution clause 10.4 – annexed as **Confidential Annexure 2**.

any two Directors may request that the decision requires ratification by a Special Majority Band Resolution<sup>165</sup> of the Band<sup>166</sup> in respect of that Payment Service.

This will allow the participants of each Payment Service (depending on the Payment Service that is the subject of the decision) to determine the outcome of a decision that would fundamentally change one or more of the three matters described above. The Major Australian Banks, individually or taken together, will not be able to control the outcome of these decisions.

## 27.5 Reduced uncertainty, allowing more efficient deployment of capital, sooner

The Conduct will be likely to result in reduced uncertainty which allows for more efficient deployment of capital, sooner and with less risk of stranded assets, because NewCo will be able to co-ordinate and direct investments.

In recent years, investment in Adoption Costs for innovations by the domestic Payments Schemes has not always been efficiently matched with the uncertainty and risk of the innovation not being implemented at all, or not successfully implemented, because:

- (a) The international payments companies have leveraged their substantial research and development budgets and in-house expertise and incentive contracts to be first to market with an innovation, with the innovation rapidly gaining ubiquity and achieving the network effect needed for success. Subsequent ‘me too’ replicated innovations by the domestic payments companies weakens the business case for participants to support the investment necessary to implement the innovation when the end user need is already being satisfactorily met; and
- (b) The innovation is only implemented by some customers with other customers prioritising ICS innovations over the domestic scheme, as has occurred, for example, with some of eftpos’ online innovations. Partial implementation prevents the innovation from gaining ubiquity and achieving a network effect, both of which are necessary for the innovation to be a success;
- (c) The competing demands on customers’ discretionary capital, including scarce in-house payments IT expertise, prevent customers from deploying the capital needed to invest in the innovation. Each customer needs to change their systems and, in some cases, build a new in-house platform, to enable them to implement payments innovations. The capital - expenditure and human in-house payments IT expertise - required to make the changes are very substantial. For a single innovation, each customer may need to expend hundreds of millions of dollars, and deploy considerable in-house IT resources, over several years to implement the innovation.

<sup>165</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution clause 1 – annexed as **Confidential Annexure 2**.

<sup>166</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 5 – NewCo Constitution, Schedule 4 (Banding Rules) – annexed as **Confidential Annexure 2**: classes of preference shares are banded into the following Bands in respect of each Payment Service: (a) in respect of the BPAY Scheme, classes of preference shares held by Members and their Related Bodies Corporate that are BPAY participants; (b) in respect of the eftpos Payments System, classes of preference shares held by Members and their Related Bodies Corporate that are eftpos participants; and (c) in respect of the New Payments Platform, classes of preference shares held by Members and their Related Bodies Corporate that are NPP participants.

## 27.6 Enhanced speed to market of innovations developed by Australia's three payment schemes

The Conduct is expected to enhance the speed to market of innovations developed by Australia's three payment schemes.

This benefit will arise because NewCo's governance arrangements will allow NewCo's management team and board of directors to consult with the members and shareholders of the three schemes in a lawful and open manner, when deciding which innovations will be developed and when.

A unified roadmap of innovations across each of the three payments schemes will remove the current information asymmetries and uncertainties that have slowed the speed at which innovations by the schemes have been brought to market.

Enhancing speed to market will allow innovations to achieve ubiquity and network effects more quickly than in the counterfactual scenario.

Part of the reason that BPAY's Osko 3 request to pay service is not in the market today may have been due to the lack of coordination over a roadmap for MPS and request to pay.

## 27.7 Increased likelihood of hybrid and targeted local innovations

The Conduct will enable the three domestic payments schemes to utilise their largely complementary assets and footprints to better address evolving customer needs in an increasingly competitive landscape and accelerate the creation of new local solutions. This will lead to payment innovations that:

- (a) Have greater functionality (focussing investment on what matters most to customers and end users, delivered once not multiple times):
- (b) Are delivered faster (due to the single roadmap and simplified touchpoints); and
- (c) At a lower cost (due to rationalised technology and the removal of duplicated spend).

The Conduct will enable flexibility to differentiate from ICS by developing innovations across A2A and cards infrastructure and provide access to combined data and technical expertise of three entities for innovative data services, to the benefit of consumers.

This is expected to address unmet client needs and deliver benefits for users, including small, medium and large businesses and consumers.

## 27.8 Reduced risk of stranded payments assets

The Conduct will reduce the risk of payments innovations becoming stranded, as has occurred, for example, with BPAY's Osko 3 request to pay innovation which is partially impaired.

## 27.9 Reduced transaction costs for the three Payments Schemes and their Participants

The Conduct will reduce transaction costs for the three domestic Payments Schemes, their participants and end-users. The single unified roadmap for innovations is expected to reduce time spent by the domestic Schemes and their participants assessing innovations for which the participants cannot create a

successful business case. This is likely to flow through to reduced Scheme fees over time.

## 27.10 Greater import substitution

The Conduct will enhance competition against the ICS by ensuring eftpos continues to operate as a pricing wedge against the ICS. Any share won by eftpos from the ICS is a form of import substitution because it results in a domestic service replacing an international one.

With greater scale and more effective coordination over ubiquitous rollout by financial institutions of a sequence of initiatives, Australia's domestic payments system will be better placed to compete with Visa and Mastercard, which are already integrating themselves into A2A and offering hybrid card and A2A solutions, as well as a number of other global players.

Visa and Mastercard have spent approximately US\$2 billion in capex and acquisitions in the last 2 years and both are innovating in real-time A2A, cross border payments and adjacent services (like data and cybersecurity).

Amalgamation will also defend against undesirable reliance on international companies for core payment services by providing a viable domestic alternative for end users.

Dependence on foreign providers and further tipping to the ICS and potentially to Big Tech payments would harm competition, limiting the choice for consumers and exposing them to non-competitive pricing. It could reduce the resilience of the payment system and weaken the ability of Australian authorities to exercise controls.

The threat of undesired dependency is extending from ICS to global Big Tech as these companies show growing interest in payments. As noted in a recent speech by the RBA Governor, Big Tech platforms are increasingly incorporating payments functionality into their service offerings which, while providing innovation, are raising new and complex competition and consumer protection issues.<sup>167</sup>

The Commission has already identified the risks to competition with the Digital Platforms Inquiry concluding that:

- (a) The expansion of large platforms into new markets and sectors has the potential to impact competition and consumer outcomes if platforms are able to leverage their market power into these new markets. By extending their ecosystems into new markets, large platforms are increasingly facilitating potential lock-in of consumers.
- (b) There are concerns that where a platform occupies a strong gateway position and acquires a business in a related market, the platform may have the ability and incentive to harm downstream rivals through high fees or restricted access. Acquisitions of data driven businesses could further entrench the data endowments of incumbent platforms, which could create a competitive advantage that makes it even more difficult for platforms' rivals to compete.<sup>168</sup>

Analogous risks are associated with the growing role of Big Tech platforms in the Australian payments market.

<sup>167</sup> <https://www.rba.gov.au/speeches/2020/sp-gov-2020-12-07.html>.

<sup>168</sup> <https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>.

The European Commission is currently investigating concerns regarding the role of Big Tech platforms in payment systems. The European Commission is investigating Apple Pay in relation to the mandatory use of Apple's own proprietary in-app purchase system and restrictions on the ability of developers to inform iPhone and iPad users of alternative cheaper purchasing possibilities outside of apps.

A group of 16 European banks has also launched the European Payments Initiative, with the support of the European Central Bank, to develop a unified payment solution for consumers and merchants across Europe. Part of the driver for this initiative is the recognition that the markets in Europe are dominated by a few large international and non-European players.

Finally, Chinese technology companies are becoming increasingly important and dynamic actors on the world stage. They're making important contributions in a range of areas, from cutting-edge research to connectivity for developing countries, but their growing influence also brings a range of strategic considerations. As a function of their increasingly global scale and scope, China's tech giants can exert increasing levels of influence over industries and governments around the world.

Governments around the world are struggling with the political and security implications of working with Chinese corporations, particularly in areas such as critical infrastructure, for example in 5G, and in collaborative research partnerships that might involve sensitive or dual-use technologies.<sup>169</sup>

### 27.11 Creating policy benefits by ensuring Australia has a strong domestic payments company

In the event of a financial crisis, Australian Governments will have greater ability to influence a unified and vibrant Australian payments company than a global company whose core markets are not likely to be in Australia.

From a payments system resiliency perspective, a consolidated domestic entity would be better positioned to provide payment services to Australians and thereby reduce over-reliance on the ICS for payment services.

### 27.12 Synergies

In addition to the likely benefits arising from the Conduct, it is anticipated that the Conduct will also give rise to a number of cost synergies / efficiencies through the following shared services:

- (a) Shared functions such as strategy, finance, legal, communications and 24/7 incident management;
- (b) Shared commercial and partnerships function to establish and manage partnerships and connected institution relationships across BPAY Opco, eftpos and NPPA;
- (c) Shared scheme operations, administration and back office; and
- (d) Shared technology, such as common API and middleware access to schemes and infrastructure. This will enable a more open architecture to accelerate third party innovation and lower the cost of access.<sup>170</sup>

<sup>169</sup> <https://www.aspi.org.au/report/mapping-chinas-tech-giants>.

<sup>170</sup> Please see Confidential Implementation Agreement, 10 December 2020, Schedule 3 – Transition Plan section 5 – annexed as **Confidential Annexure 2**

With reference to the FY20 profit and loss statement of BPAY Opco, eftpos and NPPA (see **Confidential Exhibit 29** below), there may be potential synergies in the following line items:

- (a) Employee expenses – potential to redeploy certain capabilities into other areas eg NewCo’s ‘management centre’;
- (b) Marketing expenses – under NewCo, there may be opportunities to reallocate a portion of the marketing budget to other activities eg innovation; and
- (c) Other operating expenses – accounting, consulting and legal fees may be part of activities that are amalgamated into the ‘management centre’.<sup>171</sup>

**Confidential Exhibit 29: Profit and loss statements**<sup>172</sup>

**[Confidential to the Parties]**

In 2021-22, there is forecast spend of approximately \$67 million on innovation across the OpCos. Approximately \$45 million of that forecast spend is potentially overlapping based on the functionality it delivers. On the conservative assumption, taking the higher of the entities’ costs where there is overlap in functionality delivered, NewCo can release up to approximately \$10 to 15 million (which could be redirected at other functionality) by spending \$30 to 35 million on the following functionality:

- (a) Approximately \$8 million to give and manage standing authorisations for payments initiated by third parties;
- (b) Approximately \$12 million pay for a purchase (mobile); and
- (c) Approximately \$11 million pay for a purchase (online).<sup>173</sup>

Over time, there will also be flow-on benefits across the industry:

- (a) Remove duplication in integrating new functionality;
- (b) Lower the cost of compliance, releasing more capital to invest in innovation (which is currently only ~10% of Major Australian Banks’ change costs, the remainder being consumed by risk remediation and compliance work for all schemes supported including ICS, SWIFT and wallets as well as general regulatory compliance);
- (c) Lower the cost of industry players’ supporting infrastructure and FTE to maintain security, resilience, performance and data integrity; and
- (d) Streamline the connection points into relevant infrastructure and/or service.

<sup>171</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure B – Memorandum on NewCo’s potential governance and operating model – annexed as **Confidential Annexure 2**.

<sup>172</sup> **[Confidential to the Parties]**.

<sup>173</sup> Please see Industry Committee Resolution, 16 October 2020, Confidential and Privileged Annexure B – Memorandum on NewCo’s potential governance and operating model – annexed as **Confidential Annexure 1**.

### 27.13 Potential to reduce the complexities associated with complying with three sets of compliance obligations

There will be opportunities to consolidate and standardise similar compliance obligations across the three schemes, for example, fraud reporting that will minimise regulatory burden on participants.

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## 28 Potential public detriments

The Conduct will not be likely to give rise to any measurable public detriments.

### 28.1 Any loss of competition will be overtaken by competition from the ICS, FinTech etc.

In the short to medium term, the Conduct will have no impact on the manner in which each of BPAY or eftpos and NPPA operates. The Conduct involves a commitment to each of NPPA's, BPAY's and eftpos' current, respective roadmaps.<sup>174</sup>

Absent the Conduct, in the medium to long term, Australian consumers may not be able to rely on a competitive and efficient domestic payments offering. International players like Visa and Mastercard will 'out invest' and subsequently 'out innovate' the three existing Australian payments systems.

Any loss of marginal competition in the short to medium term will be quickly and completely negated by the ICS and FinTech companies.

In time, as a result of the Conduct and more efficient targeted investment (and quicker to market innovation), NewCo will represent a stronger and differentiated domestic offering and will be better positioned to compete globally against the likes of Visa, MasterCard and FinTech.

### 28.2 No detrimental effects on the choice of large or small retailers

The Conduct will enhance the current and future options for large and smaller retailers.

The larger retailers, Woolworths and Coles, are both supportive of the amalgamation and are members of eftpos and will also gain an interest in NPPA and BPAY (via their shareholding in NewCo) after amalgamation and as a result of the Conduct.

### 28.3 The Conduct will not reduce the likelihood of lower acceptance costs from Visa or Mastercard

The Conduct will not reduce the likelihood of Visa and/or Mastercard reducing their acceptance costs where eftpos remains a choice in the relevant form factor or channel because:

- (a) Each of BPAY Opco, eftpos and NPPA will maintain decision-making power over its own pricing and, as a result, will be able to minimise the risk that acceptance costs will increase from the status quo.
- (b) NewCo's purpose and board structure will be designed to ensure a balanced approach is taken to the provision of Payment Services for the benefit of users, on a holistic basis.

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<sup>174</sup> Please see Confidential Implementation Agreement, executed on 10 December 2020, clause 4.6 – annexed as **Confidential Annexure 2**.



- (c) NewCo's shareholding structure (including the rights to call for shareholder class ratification) will offer protection against material impairment of the provision of particular Payment Services which are needed by users.

The Conduct will not diminish eftpos' ability to compete with the ICS. There is consensus among the Applicants that eftpos is critical to their ability to negotiate against the ICS and there is a strong desire to ensure eftpos continues to operate as a critical pricing wedge against the ICS.

The desire to ensure eftpos continues to operate as a critical pricing wedge against the ICS (and Big Tech) is reflected in commitments to preserve existing rules of open and non-discriminatory access and to preserve eftpos' strategic roadmap to June 2022 as well as the checks on fundamental changes to the Schemes described above.

#### **28.4 Minority shareholders will not fund future investment in the development of real-time A2A at the expense of domestic card innovation**

- (a) Funding conditions placed on future innovations eg, imposing funding requirements on any NewCo shareholder will require their agreement.
- (b) NewCo's purpose and board structure will be designed to ensure a balanced approach is taken to the provision of payment services for the benefit of all users, rather than being system-specific.
- (c) Prescribed Services up to June 2022 can minimise disruption to domestic card innovation (noting that, through the transition period and following establishment of NewCo, the OpCos will deliver these Prescribed Services and with the support of Industry Committee members as scheme members, put in place additional scheme mandates as needed. The Industry Committee members will support implementation of these Prescribed Services).
- (d) Group Strategy and cross-entity working groups can segment the roadmap (by POS payments, Remote payments, B2B/B2C payments) and determine the best infrastructure for the particular use case.
- (e) Shareholding structure (eg right to call for shareholder class ratification) protects against material impairment of the provision of particular payment services which are needed by users.

#### **28.5 The Major Australian Banks will not have an ability to increase their influence**

The Conduct will not represent an opportunity for the Major Australian Banks to entrench their influence. NewCo's governance structure will ensure, for example, that the Major Australian Banks will have less control over eftpos, BPAY and NPPA than may be currently the case.

Any perceived power of the Major Australian Banks being able to dilute the voice of smaller shareholders, merchants and retailers, particularly in consumer payments will be addressed through:

- (a) The separation of ownership and participation that limits the ability of majority shareholders to assert a dominant influence in the strategic governance of NewCo.
- (b) The composition of NewCo's board comprising four independent directors (including the Chair) and nine shareholder-nominated directors

(with two representing ADIs and three representing non-ADIs) will ensure balanced representation.

- (c) NewCo's purpose specifically refers to a range of users for whom Payment Services need to be provided.
- (d) The right to request a Special Majority Band Resolution which allows for any two directors of NewCo to call for a decision which would result in a fundamental change to be ratified by an extraordinary resolution (75%) of the shareholders who are participants in that Payment Service at the time.<sup>175</sup>

## 28.6 No reduction in innovation at the services layer

The Conduct will not result in any significant reduction in innovation at the services layer and, on the contrary, will enable innovation at this layer to be more effective through allowing innovations to achieve their desired network effect and ubiquity more quickly than would otherwise be possible.

Further, the existing strategic roadmaps of each of the three payments systems will be implemented. In each case the roadmap includes a strategy to develop and launch innovations.

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## 29 Potential benefits will outweigh potential detriments

For the reasons described in this Application, the Conduct will be pro-competitive and result in a net benefit to the public of Australia.

The Australian underlying payments systems, like many other systems globally, have been developed incrementally over time with different standards, over different platforms with independent roadmaps and, like the global payments landscape, are rapidly evolving.

The perceived manner in which consumers, businesses and government transfer money is constantly changing, although the underlying infrastructure transferring the funds seldom changes. For example, the centralised eftpos infrastructure and centralised settlement service replaced a network of bilateral connectivity that existed for 25 years and the NPP is the first wholly new payments system to be launched in Australia for about 20 years.

Digital and mobile technology have significantly reshaped consumers' purchasing habits and e-commerce has brought unrivalled convenience to end users, who are increasingly able to purchase with a single click of a button or scan of a mobile. "Cash, debit, or credit" are no longer acceptable as the only options for purchases; around the globe, mobile payments are becoming increasingly more common and convenient, even if funded by a debit or credit transaction.

Consumers' usage of new payment technologies, particularly at the user interface, is expected to increase substantially over the next five years, and this shift away from traditional methods of payment requires a domestic payments system that is:

- (a) resilient, effective and efficient and innovating to meet demand;
- (b) one that enables the effective allocation of capital; and

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<sup>175</sup> Please see Confidential Implementation Agreement, executed on 10 December 2020, clause 10.5 – annexed as **Confidential Annexure 2**.

- (c) one that derives the greatest benefit to end-users,  
so that it can compete in this new “user experience” market.

There is a pressing need for coordination to achieve ubiquity and network effects for innovations by each of BPAY, eftpos and NPPA. The status quo poses substantial barriers for achieving those needed effects – effects which are necessary for innovations to be successful and pro-competitive. In the counterfactual scenario, the substantial barriers are:

- (d) Slowness and inefficiency in rolling out of some payment scheme initiatives on the side of the participant financial institutions, with the consequence that many initiatives will not achieve sufficient ubiquity in a timely fashion.
- (e) Some beneficial innovation will not develop at all.
- (f) Third party innovation over NPPA’s infrastructure will be delayed due to slowness of rollout of NPPA’s infrastructure and databases.
- (g) Domestic constraints on the ICS will be weaker because the domestic payments systems will lack the same degrees of functionality or differential value propositions for merchants and consumers.

The Conduct will lead to benefits that will follow directly from better coordination and sequencing of innovation initiatives and the achievement of network effects, which will correct the market failures in the investment processes in the status quo and those benefits will substantially outweigh any likely detriments from the Conduct.

The Applicants submit that the Commission should grant the authorisation sought.

## 30 Contact information

### 30.1 Contact information of the Applicants

Company	Contact	Legal Contact
Australia and New Zealand Banking Group	<p><b>Nigel Dobson</b>, Banking Services Business Domain Lead – <b>[Confidential to the Parties]</b></p> <p><b>Jackie Kallman</b>, Head of Payments Industry and Engagement - <b>[Confidential to the Parties]</b></p>	<p><b>Roslyn Moloney</b>, Head of Legal, Regulatory <b>[Confidential to the Parties]</b></p> <p><b>Rebecca Hope</b>, Head of Legal – Institutional Digital &amp; Special Projects <b>[Confidential to the Parties]</b></p>
Australian Settlements Limited	<p><b>Mark Tibbles</b> – <b>[Confidential to the Parties]</b></p> <p><b>Peter Jaramaz</b> – <b>[Confidential to the Parties]</b></p>	
Bendigo and Adelaide Bank Limited	<b>Kate Byrne</b> – <b>[Confidential to the Parties]</b>	

Company	Contact	Legal Contact
	<b>Michael O'Shea –</b> [Confidential to the Parties]	
Coles Group	<b>Paul Askew</b> , General Manager Financial services - [Confidential to the Parties]	<b>Karen Gibbons</b> , Head of Legal, Operations & Procurement - [Confidential to the Parties]  <b>Lauren Donazzan</b> , Legal Counsel – [Confidential to the Parties]
Commonwealth Bank of Australia	<b>Simon Birch</b> , Executive General Manager - [Confidential to the Parties]	<b>Carmel Mulhern</b> , Group General Counsel – [Confidential to the Parties]
Cuscal Limited	<b>Sarv Girn –</b> [Confidential to the Parties]	<b>Alfredo Amado -</b> [Confidential to the Parties]
First Data Network Australia Limited trading as Fiserv	<b>Kees Kwakernaak –</b> [Confidential to the Parties]	
HSBC Bank Australia Limited	<b>David Taylor –</b> [Confidential to the Parties]  <b>Ian Wunderluch –</b> [Confidential to the Parties]	
Macquarie Bank Limited	<b>Greg Moore –</b> [Confidential to the Parties]  <b>David McPartling –</b> [Confidential to the Parties]	
National Australia Bank	<b>Martin Rieschieck -</b> Executive, Group Development -  <b>Dianne Shay</b> , Head of Payments Industry, Transaction Banking & Enterprise Payments, Corporate & Institutional Bank - [Confidential to the Parties]	
Tyro Payments Limited	<b>Robbie Cooke –</b> [Confidential to the Parties]  <b>James Revell –</b> [Confidential to the Parties]	

Company	Contact	Legal Contact
Westpac Banking Corporation	<p><b>Dianne Challenor</b> - Managing Director, Global Transaction Services, WIB - <b>[Confidential to the Parties]</b></p> <p><b>Damien Low</b>, Chief Operating Officer, Global Transactional Services, WIB - <b>[Confidential to the Parties]</b></p>	<p><b>Jonathan Benson</b>, Head of WIB &amp; International Legal - <b>[Confidential to the Parties]</b></p>
Woolworths Group	<p><b>Paul Monnington</b>, General Manager Financial Services, Digital and Payments – <b>[Confidential to the Parties]</b></p>	<p><b>Bill Reid</b>, Chief Legal Officer – <b>[Confidential to the Parties]</b></p> <p><b>Anurag Verma</b>, General Counsel Woolworths – <b>[Confidential to the Parties]</b></p>

### 30.2 Contact information for Persons Named or Referred to in the Application

Company	Contact	Legal Advisor
BPAY	<p><b>John Banfield</b>, Chief Executive Officer <b>[Confidential to the Parties]</b></p> <p><b>Mark Williams</b>, Chief Strategy Officer – <b>[Confidential to the Parties]</b></p>	<p><b>Helen Ord</b>, BPAY Head of Legal – <b>[Confidential to the Parties]</b></p> <p><b>Luke Woodward</b>, Partner at Gilbert + Tobin – <b>[Confidential to the Parties]</b></p> <p><b>Andrew Low</b>, Special Counsel at Gilbert +Tobin – <b>[Confidential to the Parties]</b></p>
eftpos	<p><b>Stephen Benton</b> - <b>[Confidential to the Parties]</b></p>	<p><b>Robyn Sanders</b>, General Counsel &amp; Company Secretary - <b>[Confidential to the Parties]</b></p> <p><b>Hannah Marshall</b>, Partner, Marque Lawyers – <b>[Confidential to the Parties]</b></p>
NPPA	<p><b>Adrian Lovney</b>, Chief Executive Officer – <b>[Confidential to the Parties]</b></p>	<p><b>Vanessa Chapman</b>, General Counsel and Company Secretary - <b>[Confidential to the Parties]</b></p>
Adyen Australia Pty Limited	<p><b>Hayley Fisher</b> - <b>[Confidential to the Parties]</b></p>	
Bank of Queensland Limited	<p><b>Margie Watson</b>, Product Manager – Deposits - <b>[Confidential to the Parties]</b></p>	
Citigroup Pty Limited	<p><b>Peter Smeulders</b>, Head of Industry Relationships, Enterprise Supply Chain – <b>[Confidential to the Parties]</b></p>	<p><b>Katherin Luft</b> - <b>[Confidential to the Parties]</b></p>

Company	Contact	Legal Advisor
EFTEX Pty Limited	<b>Paul Stewart</b> , General Manager, EFTEX Pty Limited - <b>[Confidential to the Parties]</b>	
ING Bank (Australia) Limited	<b>George Thompson</b> - <b>[Confidential to the Parties]</b>	
Indue Limited	<b>Dave Hemingway</b> , Senior Product Manager - <b>[Confidential to the Parties]</b>	
Suncorp Metway Ltd	<b>Anna Westendorf</b> , Head of Consumer Payments & Treasury Systems, Everyday Banking - <b>[Confidential to the Parties]</b>	
Windcave Pty Ltd	<b>Catherine Claringbull</b> – National Manager – Australia <b>[Confidential to the Parties]</b>	

### 30.3 Contact information for potential Interested Parties

Name	Contact
Reserve Bank of Australia	<b>Tony Richards</b> – <b>[Confidential to the Parties]</b> <b>Christopher Thompson</b> - <b>[Confidential to the Parties]</b>
Australian Securities and Investment Commission	<b>Sydney Office:</b> Level 5, 100 Market Street, Sydney NSW 2000 Ph: 1300 935 075
Australian Prudential Regulation Authority	<a href="mailto:info@apra.gov.au">info@apra.gov.au</a> Ph: 1300 558 849
AUSTRAC	Ph: 1300 021 037
MGA Independent Retailers and Timber Merchants Australia (MGA/TMA)	<b>Jos de Bruin (CEO)</b> <b>[Confidential to the Parties]</b>
Australasian Association of Convenience Stores (AACS)	<b>Jeff Rogut</b> <b>[Confidential to the Parties]</b>
Council of Small Business Organisations of Australia (COSBOA)	<b>Peter Strong (CEO)</b> <b>[Confidential to the Parties]</b>

Name	Contact
<b>Australian Payments Network (formerly Australian Payments Clearing Association)</b>	<b>Nancy Bryla</b> , General Counsel & Company Secretary [Confidential to the Parties]
<b>Customer Owned Banking Association (COBA)</b>	Luke Lawler Ph: 02 8035 8400 Email: <a href="mailto:info@coba.asn.au">info@coba.asn.au</a>
<b>Australian Banking Association</b>	PO Box H218 Australia Square NSW 1215 Ph: +61 2 8298 0417 Email: <a href="mailto:reception@ausbanking.org.au">reception@ausbanking.org.au</a>
<b>Australian Finance Industry Association</b>	Ph: (02) 9231 5877 <a href="mailto:info@afia.asn.au">info@afia.asn.au</a>
<b>Australian Financial Markets Association</b>	Ph: 02 9776 790 – Head Office
<b>Visa</b>	1 Market St #600 San Francisco CA 94105 <a href="mailto:globalmedia@visa.com">globalmedia@visa.com</a> Ph: +1 650-432-3200
<b>Mastercard</b>	72 Christie St St Leonards NSW 2065 Ph: +61 2 9466 3700 Asia Pacific Media Contact: <a href="mailto:barkha.patel@mastercard.com">barkha.patel@mastercard.com</a>
<b>American Express</b>	GPO Box 1582 Sydney NSW 2001 Ph: 1300 736 659 Asia Pacific Media Contact: <a href="mailto:william.f.quinn@aexp.com">william.f.quinn@aexp.com</a>
<b>Apple (Apple Pay)</b>	PO Box A2629 Sydney South NSW 1235 Ph: 133 511
<b>Ant Group (Alipay)</b>	Level 2, 17 Castlereagh Street Sydney NSW 2000 Australia Ph: +61 2 8330 2873

Name	Contact
	<a href="mailto:globalcomms@antgroup.com">globalcomms@antgroup.com</a>
<b>Samsung Pay</b>	8 Parkview Drive Homebush Bay NSW 2127  <a href="mailto:mediateam@samsung.com">mediateam@samsung.com</a>
<b>Afterpay</b>	Level 5, 406 Collins St Melbourne VIC 3000  <a href="mailto:media@afterpay.com">media@afterpay.com</a>
<b>Zip Co</b>	14/10 Spring St Sydney NSW 2000  <a href="mailto:media.relations@zip.co">media.relations@zip.co</a>
<b>FinTech Australia</b>	Simone Joyce  <a href="mailto:media@fintechaustralia.org.au">media@fintechaustralia.org.au</a>  Tank Stream Labs Level 8, 11 York St Sydney NSW 2000
<b>Facebook</b>	Level 41, Tower Two, 200 Barangaroo Ave Sydney NSW 2000  <a href="mailto:info@facebook.com">info@facebook.com</a>
<b>Amazon</b>	Level 37, 2 Park Street Sydney NSW 2000  <a href="mailto:pressoffice@amazon.com.au">pressoffice@amazon.com.au</a>  Ph: 1800 571 894
<b>Google (Google Pay)</b>	48 Pirrama Road Sydney NSW 2009  Ph: +61 2 9374 4000  <a href="mailto:press-australia-nz@google.com">press-australia-nz@google.com</a>
<b>Tencent (WeChat Pay)</b>	Tencent Binhai Building, No 33, Haitian Second Road Nanshan District Shenzhen 518054  Ph: +86-755-86013388
<b>Square</b>	1455 Market Street, Suite 600 San Francisco CA 94103  <a href="mailto:press-au@squareup.com">press-au@squareup.com</a>
<b>TransferWise</b>	44 Martin Place Sydney NSW 2000



Name	Contact
	<a href="mailto:press@wise.com">press@wise.com</a>
PayPal	Level 23, 1 York Street Sydney NSW 2000  Regional Media Contact: <a href="mailto:paypal@edelman.com">paypal@edelman.com</a>
Stripe	510 Townsend Street San Francisco CA  <a href="mailto:info@stripe.com">info@stripe.com</a>

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### 31 Filings in other jurisdictions

Nil.

## Schedule 1 Undertakings / Declarations

#	Applicant	Date undertaking signed	Date declaration signed
1	ANZ	17 March 2021	17 March 2021
2	ASL	-	17 March 2021
3	Bendigo and Adelaide Bank Limited	-	16 March 2021
4	CBA	17 March 2021	17 March 2021
5	Coles Group Limited	-	17 March 2021
6	Cuscal Limited	-	16 March 2021
7	First Data Network Australia Limited trading as Fiserv	-	17 March 2021
8	HSBC Bank Australia Limited	-	9 March 2021
9	Macquarie Bank Limited	-	16 March 2021
10	NAB	15 March 2021	17 March 2021
11	Tyro Payments Limited	-	17 March 2021
12	WBC	16 March 2021	16 March 2021
13	Woolworths Group Limited	-	15 March 2021

## Schedule 2 Claims for confidentiality

[Confidential to the Parties]

## Schedule 3 Shareholders and/or Members of BPAY Holdco, eftpos and NPPA

This section provides, in more detail, a description of each of the shareholders and members of BPAY Holdco, eftpos and NPPA.

### 1 Australia and New Zealand Banking Group Limited

<b>ACN</b>	005 357 522
<b>Office location</b>	Level 9A, 833 Collins St, Docklands, Melbourne, VIC 3008
<b>Annual revenue</b>	\$17,586 million <sup>176</sup>
<b>No. of employees</b>	39,060 <sup>177</sup>

ANZ (ASX: ANZ) provides a range of banking and financial products and services to retail, small business, corporate and institutional clients. ANZ operates in Australia, New Zealand, Asia-Pacific, the United Kingdom and the United States<sup>178</sup>. ANZ's main business divisions consist of Retail, Commercial, Transaction Banking, Loans & Specialised Finance, Markets, and Commercial banking.

The Australia division comprises of the Retail and Business & Commercial.<sup>179</sup> Retail provides products and services to consumer customers in Australia via the branch network, mortgage specialists, contact centres, a variety of self-service channels and third-party brokers. Commercial provides a full range of banking products and financial services to large commercial customers and agribusiness customers across regional Australia.

The Institutional division consists three product sets:<sup>180</sup>

- (a) **Transaction Banking** provides working capital and liquidity including documentary trade, supply chain financing, commodity financing as well as cash management solutions, deposits, payments and clearing.
- (b) **Loans & Specialised Finance** provides loan products, loan syndication, specialised loan structuring and execution, project and export finance, debt structuring and acquisition finance and corporate advisory.
- (c) **Markets** provide risk managements services on foreign exchange, interest rates, credit, commodities and debt capital markets.

Similar business units exist across the New Zealand and Pacific Divisions.

<sup>176</sup> Year ended 30 September 2020 – see ANZ 2020 Annual Report – annexed as **Annexure 31**.

<sup>177</sup> As at 30 September 2020 - see <https://www.anz.com/shareholder/centre/about/>.

<sup>178</sup> <https://www.anz.com/shareholder/centre/about/>.

<sup>179</sup> ANZ 2020 Annual Report, page 27 – annexed as **Annexure 31**.

<sup>180</sup> ANZ 2020 Annual Report, page 28 – annexed as **Annexure 31**.

More information can be found here: <https://www.anz.com.au/about-us/.ANZ's>  
 2020 Annual report can be found here:  
<https://www.anz.com/shareholder/centre/reporting/annual-report-annual-review/>.

## 2 Commonwealth Bank of Australia

<b>ACN</b>	123 123 124
<b>Office location</b>	Level G, 201 Sussex St, Sydney, NSW 2000
<b>Annual revenue</b>	\$23,758 million <sup>181</sup>
<b>No. of employees</b>	48,167 FTE <sup>182</sup>

CBA (ASX: CBA) provides financial services to approximately 17 million customers,<sup>183</sup> including retail, business and institutional banking, funds management, superannuation, general insurance and broking services. Its operations are conducted primarily in Australia and New Zealand. In addition, it also operates in a number of other countries.<sup>184</sup>

### Retail Banking Services

Retail Banking Services provides banking and general insurance products and services to personal and private banking customers.<sup>185</sup> Retail Banking Services also includes the financial results of retail banking activities provided under the Bankwest brand.

### Business Banking

Business Banking serves the banking needs of business, corporate and agribusiness customers across the full range of financial services solutions.<sup>186</sup> It also provides equities trading and margin lending services through the CommSec business. Business Banking also includes the financial results of business banking activities conducted under the Bankwest brand.

### Institutional Banking and Markets

Institutional Banking and Markets serves the commercial and wholesale banking needs of large corporate, institutional and government clients across a full range of financial services solutions including access to debt capital markets, transaction banking, working capital and risk management through dedicated product and industry specialists.<sup>187</sup>

<sup>181</sup> Year ended 30 June 2020 – see Commonwealth Bank of Australia Annual Report, page 135–annexed as **Annexure 32**.

<sup>182</sup> As at 30 June 2020 - see Commonwealth Bank of Australia 2020 Annual Report, page 50.

<sup>183</sup> Commonwealth Bank of Australia 2020 Annual Report, page 3 – annexed as **Annexure 32**.

<sup>184</sup> <https://www.commbank.com.au/about-us/our-company/international-branches.html?ei=abt-international-branches>.

<sup>185</sup> [https://www.commbank.com.au/banking.html?ei=mv\\_banking](https://www.commbank.com.au/banking.html?ei=mv_banking).

<sup>186</sup> [https://www.commbank.com.au/business.html?ei=mv\\_business](https://www.commbank.com.au/business.html?ei=mv_business).

<sup>187</sup> [https://www.commbank.com.au/institutional.html?ei=mv\\_institutional](https://www.commbank.com.au/institutional.html?ei=mv_institutional).

## International

The New Zealand division primarily includes the banking and funds management businesses operating under the ASB brand.<sup>188</sup> CBA also has branches across Europe, North America and Asia.<sup>189</sup>

More information can be found here: <https://www.commbank.com.au/about-us/>.  
CBA's Annual Report can be found here:  
<https://www.commbank.com.au/content/dam/commbank/about-us/shareholders/pdfs/results/fy20/cba-2020-annual-report.pdf>

## 3 National Australia Bank Limited

<b>ACN</b>	004 044 937
<b>Office location</b>	800 Bourke St, Docklands, VIC 3008
<b>Annual revenue</b>	\$17,190 million <sup>190</sup>
<b>No. of employees</b>	34,944 <sup>191</sup>

NAB (ASX: *NAB*) NAB is a financial services group that provides a comprehensive and integrated range of banking and financial services including wealth management throughout Australia and New Zealand, with branches located in Asia, the United Kingdom and the United States.<sup>192</sup>

Australian banking, including personal banking and business banking, offers a range of banking products and services to retail and business customers, ranging from small and medium enterprises through to Australia's largest institutions.

NAB's personal banking products can be accessed through various channels including NAB, nabtrade and UBank.

NAB's business banking products cater to customers' needs with specialist expertise in Agribusiness, property, health, government, education and community.

NAB's corporate and institutional banking provides a range of lending and transactional products and services in Australia and globally, with specialised industry relationships and product teams, and also comprises Markets, specialised finance, debt markets, asset servicing and treasury.

In addition, NAB's wealth management division provides superannuation, advice, investment and insurance solutions to retail, corporate and institutional clients, supported by a number of brands including MLC, JBWere, JANA, Plum and investment brands under MLC Asset Management.

More information can be found here: <https://www.nab.com.au/about-us>. NAB's 2020 Annual Report can be found here:

<sup>188</sup> <https://www.commbank.com.au/about-us/our-company/international-branches/new-zealand.html>.

<sup>189</sup> <https://www.commbank.com.au/about-us/our-company/international-branches.html>.

<sup>190</sup> Year ended 30 September 2020 – see NAB 2020 Annual Report, page 99 – annexed as **Annexure 33**.

<sup>191</sup> As at 30 September 2020 – see NAB 2020 Annual Report, page 7 – annexed as **Annexure 33**.

<sup>192</sup> <https://www.nab.com.au/about-us>.

<https://www.nab.com.au/content/dam/nabrwd/documents/reports/corporate/2020-annual-financial-report-pdf.pdf>.

## 4 Westpac Banking Corporation

<b>ACN</b>	007 457 141
<b>Office location</b>	Level 18, 275 Kent St, Sydney, NSW 2000
<b>Annual revenue</b>	\$20,183 million <sup>193</sup>
<b>No. of employees</b>	36,849 <sup>194</sup>

WBC (ASX: WBC) is a banking and financial services group that deals in the provision of financial services including lending, deposit taking, payments services, investment platforms, superannuation and funds management, insurance services, leasing finance, general finance, interest rate risk management and foreign exchange services. It nearly serves around 13 million customers.<sup>195</sup>

### Consumer Bank<sup>196</sup>

The Consumer division is responsible for serving the banking needs of consumers in Australia including the sales and service of banking products, from mortgages, credit cards, personal loans and savings to deposit products, under the Westpac, St. George, Bank of Melbourne, BankSA, BT and RAMS brands. This division also works with Business, Westpac Institutional Bank, and Specialist Businesses in the sales, service and referral of certain financial services and products including general and life insurance, superannuation, platforms, auto lending and foreign exchange.

### Business Division<sup>197</sup>

Responsible for sales and service to micro, small-to-medium enterprises, commercial business and Private Wealth clients in Australia under the Westpac, St. George, Bank of Melbourne, BankSA, BT brands and Capital Finance. The division also provides specialist services for cash flow finance, trade finance, automotive and equipment finance, property finance, treasury and auto finance loans.

### Westpac Institutional Bank<sup>198</sup>

This division is responsible for delivering a broad range of financial products and services to commercial, corporate, institutional and government customers with connections to Australia and New Zealand; services include financing, transactional banking, financial and debt capital markets.

<sup>193</sup> Year ended 30 September 2020 – see Westpac 2020 Annual Report, page 10 – annexed as **Annexure 34**.

<sup>194</sup> As at 30 September 2020 – see Westpac 2020 Annual Report, page 113 – annexed as **Annexure 34**.

<sup>195</sup> <https://www.westpac.com.au/about-westpac/westpac-group/company-overview/our-businesses/>.

<sup>196</sup> <https://www.westpac.com.au/about-westpac/westpac-group/company-overview/our-businesses/>.

<sup>197</sup> <https://www.westpac.com.au/about-westpac/westpac-group/company-overview/our-businesses/>.

<sup>198</sup> <https://www.westpac.com.au/about-westpac/westpac-group/company-overview/our-businesses/>.

Customers are supported through branches and subsidiaries located in Australia, New Zealand, Asia, the United States and the United Kingdom. Westpac Institutional Bank is also responsible for the Group's Pacific Banking operations providing a full range of banking services in Fiji and Papua New Guinea.

**Other**

Westpac New Zealand is responsible for sales and service of banking, wealth and insurance products for consumer, business and institutional customers in New Zealand, operating under the Westpac New Zealand, Westpac Life and BT Funds Management (NZ) brands.<sup>199</sup>

The Specialist Businesses division includes the non-core Australian businesses, including superannuation, wealth platforms, investments, auto-finance, general insurance, life insurance, lenders mortgage insurance, along with their operations in Fiji and Papua New Guinea.

More information can be found here: <https://www.westpac.com.au/about-westpac/>. Westpac's 2020 Annual Report can be found here: <https://www.westpac.com.au/about-westpac/investor-centre/financial-information/annual-reports/>.

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## 5 Bendigo and Adelaide Bank Limited

<b>ACN</b>	068 049 178
<b>Office location</b>	The Bendigo Centre, Bendigo, VIC 3550
<b>Annual revenue</b>	\$1,634.4 million <sup>200</sup>
<b>No. of employees</b>	5,900 (approx.) <sup>201</sup>

Bendigo and Adelaide Bank Limited (ASX: *BEN*) provides a range of banking and other financial services including consumer, residential, business and rural lending, deposit taking, payments services, wealth management and superannuation, treasury and foreign exchange services.<sup>202</sup>

**Consumer Division**

The Consumer division is focused on engaging with and servicing consumer customers and includes the branch network (including Community Banks and Alliance Partners), mobile relationship managers, third party banking channels, wealth services, Homesafe, call centres and customer support functions including processing centres.

**Business Division**

The Business division is focused on servicing our Bendigo Bank business customers, particularly small and medium businesses who are seeking a relationship banking experience.

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<sup>199</sup> <https://www.westpac.com.au/about-westpac/westpac-group/company-overview/our-businesses/>.

<sup>200</sup> Year ended 30 June 2020 – see Bendigo and Adelaide Bank 2020 Annual Financial Report, page 45 – annexed as **Annexure 35**.

<sup>201</sup> Bendigo and Adelaide Bank 2020 Annual Financial Report – annexed as **Annexure 35**.

<sup>202</sup> Bendigo and Adelaide Bank 2020 Annual Financial Report – annexed as **Annexure 35**.



## Agribusiness Division

The Agribusiness division includes services provided to agribusiness customers through our Rural Bank brand, with a focus on providing exceptional financial services, knowledge and leadership for Australian farmers to grow.

More information can be found here: <https://www.bendigobank.com.au/about-us/>. Bendigo and Adelaide Bank's 2020 Annual Report can be found here: <https://www.bendigoadelaide.com.au/globalassets/documents/bendigoadelaide/investorcentre/results-and-reporting/annual-reviews/annual-financial-report-2020.pdf>.

## 6 Cuscal Limited

<b>ACN</b>	087 822 455
<b>Office location</b>	1 Margaret Street, Sydney NSW 2000
<b>Annual revenue</b>	\$146.8 million <sup>203</sup>
<b>No. of employees</b>	521 <sup>204</sup>

Cuscal is an ADI and the largest independent provider of payments solutions for the Australian financial services sector. Cuscal is rated A+ by S&P ratings.<sup>205</sup>

Cuscal is an unlisted public company that, amongst other things, enables financial institutions, payment service providers and businesses to integrate payment services into their products and payment processes.

Cuscal largely consists of the following Cash Generating Units (CGU):<sup>206</sup>

### Corporate

The Corporate CGU covers Cuscal's investment and treasury activities; including the funding of those activities. The Corporate CGU also manages the investment of Cuscal's surplus capital.

### Payments

Payments is the main CGU, which covers the processing, and clearing and settlement of financial transactions on behalf of clients, generally for their customers. Payments includes Cuscal's card issuance activities, fraud monitoring, industry compliance, data analytics and Cuscal's switching activities.

### Digital Banking

This CGU covers the activities of the 86 400 Group (86 400) which received its banking licence on 18 July 2019 and is developing its operations as a digital bank through expanding its customer base and product offering.

<sup>203</sup> Year ended 30 June 2020 - see Cuscal 2020 Annual Report, page 19  
<https://www.cuscalpayments.com.au/download/cuscal-annual-report-2020/>.

<sup>204</sup> As at 30 June 2020 – see Cuscal 2020 Annual Report, page 83  
<https://www.cuscalpayments.com.au/download/cuscal-annual-report-2020/>.

<sup>205</sup> <https://www.cuscalpayments.com.au/about-us/who-we-are/>; Cuscal 2020 Annual Report, page 56.

<sup>206</sup> Please see <https://www.cuscalpayments.com.au/about-us/who-we-are/>.

More information can be found here: <https://www.cuscalpayments.com.au/about-us/>. Cuscal's 2020 Annual Report can be found here: <https://www.cuscalpayments.com.au/download/cuscal-annual-report-2020/>

## 7 Citigroup Pty Limited (Citi Australia)

<b>ACN</b>	004 325 080
<b>Office location</b>	2 Park Street, Sydney NSW
<b>Annual revenue</b>	Unknown
<b>No. of employees</b>	1,500 <sup>207</sup>

Citi Group is one of the world's largest financial services companies with a presence in nearly 100 countries. Citi Australia is its Australian subsidiary, and has been providing financial services to Australian consumers, corporations, institutions and governments for more than 30 years.<sup>208</sup> Citi Australia's core activities are safeguarding assets, lending money, making payments and accessing the capital markets on behalf of clients.<sup>209</sup>

Citi's two major business divisions, Global Consumer Bank and Institutional Clients Group, operate in Australia.<sup>210</sup>

- (a) The Institutional Clients Group serves over 1000 clients across Australia and New Zealand. It consists of four business divisions: Banking Capital Markets and Advisory; Markets and Securities Services; Treasury and Trade Services and the Commercial Bank.
- (b) The Global Consumer Bank provides banking services to over 1 million Australians. It is Australia's largest credit card provider, with approximately 12% market share.

More information can be found here: <http://www.citigroup.com/australia/aboutus/>. Citi Group's 2019 Annual Report can be found here: [https://www.citigroup.com/citi/investor/quarterly/2020/ar19\\_en.pdf?ieNocache=894](https://www.citigroup.com/citi/investor/quarterly/2020/ar19_en.pdf?ieNocache=894).

## 8 Australian Settlements Limited

<b>ACN</b>	087 822 491
<b>Office location</b>	Level 3 151 Castlereagh St Sydney, NSW 2000
<b>Annual revenue</b>	\$1,099,288 <sup>211</sup>
<b>No. of employees</b>	29

<sup>207</sup> <https://www.citi.com/australia/aboutus/>.

<sup>208</sup> <https://www.citi.com/australia/aboutus/>.

<sup>209</sup> <https://www.citi.com/australia/aboutus/>.

<sup>210</sup> <https://www.citi.com/australia/aboutus/>.

<sup>211</sup> Year ended 30 June 2020 – see ASL 2020 Annual Report, page 6 – annexed as **Annexure 36**.

ASL was formed in 1993 as a mutual organisation by its founding members (Building Societies) to provide settlement services and allow them to participate in the various financial sector clearing streams.<sup>212</sup> ASL today is still an organisation which, like many of its clients, is owned by its members and supplies services to those members. ASL's members include mutual financial institutions such as Hume Bank and Heritage Bank.<sup>213</sup>

ASL provides high quality, value for money and efficient settlement and transaction processing services to its members.<sup>214</sup> Through the aggregation of its members' transactions, ASL is able to provide access to cheque processing, DE, NPP access, card scheme sponsorship, BPAY and other financial services.<sup>215</sup>

As an ADI, ASL is under the supervision and regulation of the APRA and the RBA.<sup>216</sup> ASL was the first non-bank to have an ESA at the RBA.<sup>217</sup>

More information can be found here: <https://www.asl.com.au/About>. ASL's 2020 Annual Report can be found here: <https://www.asl.com.au/documents/annualReports/asl-annual-report-2020.pdf>.

## 9 ING Bank (Australia) Limited

<b>ABN</b>	24 000 893 292
<b>Office location</b>	60 Margaret St, Sydney New South Wales
<b>Annual revenue</b>	\$440 million (net profit after tax) <sup>218</sup>
<b>No. of employees</b>	1,766 <sup>219</sup>

ING Bank (Australia) Limited – trading as ING, is a wholly owned subsidiary of ING Group, a Dutch multinational banking and financial services corporation headquartered in Amsterdam. <sup>220</sup> ING Bank (Australia) Limited is a holder of an Australian banking licence since 1994 and is regulated by APRA.<sup>221</sup>

ING Bank (Australia) Limited offers consumers products across a number of portfolios, including:<sup>222</sup>

- (a) Bank and Save (everyday banking, personal savings and business savings);

<sup>212</sup> <https://www.asl.com.au/About>.

<sup>213</sup> <https://www.asl.com.au/About>.

<sup>214</sup> <https://www.asl.com.au/About>.

<sup>215</sup> <https://www.asl.com.au/About>.

<sup>216</sup> <https://www.asl.com.au/About>.

<sup>217</sup> <https://www.asl.com.au/About>.

<sup>218</sup> Year ended 31 December 2019 – see ING Bank (Australia) Limited 2019 Annual Report – annexed as **Annexure 37**.

<sup>219</sup> As at 31 December 2019 – see ING Bank (Australia) Limited 2019 Annual Report – annexed as **Annexure 37**.

<sup>220</sup> <https://www.ing.com/About-us/Profile/ING-at-a.htm>.

<sup>221</sup> <https://www.ing.com.au/about-us/who-we-are-company.html>.

<sup>222</sup> <https://www.ing.com.au/about-us/who-we-are-company.html>.

- (b) Credit cards (all credit cards, orange one low rate and Orange one rewards platinum);
- (c) Personal Loans;
- (d) Home Loans (all home loans, orange Advantage, Mortgage Simplifier and Fixed Rate loan);
- (e) Insurance (ING Home and Contents insurance and SMSF Cash / SMSF Term Deposit); and
- (f) Superannuation (Living Super).

For more information, please refer to <https://www.ing.com.au/about-us.html>. ING Australia's 2020 Annual Report can be found here: [https://newsroom.ing.com.au/wp-content/uploads/2020/03/2019\\_ING-Australia\\_Annual\\_Report.pdf](https://newsroom.ing.com.au/wp-content/uploads/2020/03/2019_ING-Australia_Annual_Report.pdf).

## 10 Indue Limited

<b>ABN</b>	97 087 822 464
<b>Office location</b>	Toowong, Queensland
<b>Annual revenue</b>	\$61.91 million in sales (USD). <sup>223</sup>
<b>No. of employees</b>	163 <sup>224</sup>

Indue Limited is an ADI, licensed and regulated by APRA.<sup>225</sup>

Indue Limited is authorised to take deposits from the public and is subject to the same regulatory standards and supervisory oversight as is applied to all Australian ADIs, including major banks.<sup>226</sup>

Indue Limited offers a full end-to-end payments solution (including mobile payments, pre-paid credit cards or credit and debit card schemes), without engaging other vendors.<sup>227</sup>

For more information, please refer to <https://www2.indue.com.au/>. Indue Limited's 2020 Annual Report can be found here: [https://www2.indue.com.au/wp-content/uploads/2020/10/IND-3050-Indue-Annual-Report-2020\\_FINAL\\_Web.pdf](https://www2.indue.com.au/wp-content/uploads/2020/10/IND-3050-Indue-Annual-Report-2020_FINAL_Web.pdf).

## 11 Woolworths Group Limited

<b>ABN</b>	88 000 014 675
<b>Office location</b>	1 Woolworths Way Bella Vista, New South Wales

<sup>223</sup> [https://www.dnb.com/business-directory/company-profiles/indue\\_ltd.9bea04e37e959f5889b4497b7eb58537.html](https://www.dnb.com/business-directory/company-profiles/indue_ltd.9bea04e37e959f5889b4497b7eb58537.html).

<sup>224</sup> [https://www.dnb.com/business-directory/company-profiles/indue\\_ltd.9bea04e37e959f5889b4497b7eb58537.html](https://www.dnb.com/business-directory/company-profiles/indue_ltd.9bea04e37e959f5889b4497b7eb58537.html)

<sup>225</sup> <https://indue.bfs.org.au/about-indue>.

<sup>226</sup> <https://indue.bfs.org.au/about-indue>.

<sup>227</sup> <https://www2.indue.com.au/>.

<b>Annual revenue</b>	\$63,675 million <sup>228</sup>
<b>No. of employees</b>	215,000 <sup>229</sup>

Woolworths Group Limited (ASX: WOW) manages some of Australia's most recognised and trusted brands, including Woolworths, Countdown, Dan Murphy's, BWS and BIG W.<sup>230</sup>

Woolworths Group has a total store network of 3,357 stores servicing a combined 29.1 million customers on average a week, including:<sup>231</sup>

- (a) 1,052 Australian Food outlets;
- (b) 182 New Zealand Food outlets,
- (c) 179 BIG W outlets;
- (d) 1,610 Endeavour Drinks outlets; and
- (e) 334 Hotel outlets.

Woolworths Group core business consists of:<sup>232</sup>

- (a) Australian Food (consisting of Woolworths supermarkets operating 995 stores nationally; Everyday Rewards (Woolworths Rewards); and Woolworths Financial Services and Insurance);
- (b) New Zealand Food (consisting of countdown servicing more than 2.5 million customers every week);
- (c) Endeavour Group Limited (consisting of Dan Murphy's, BWS, Cellmasters, Langton's, ALH Group hotels); and
- (d) Portfolio (BIG W).

More information can be found here:

<https://www.woolworthsgroup.com.au/page/about-us>. Woolworth's 2020 Annual Report can be found here:  
[https://www.woolworthsgroup.com.au/icms\\_docs/195794\\_annual-report-2020.pdf](https://www.woolworthsgroup.com.au/icms_docs/195794_annual-report-2020.pdf)

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## 12 Coles Group Limited

<b>ACN</b>	004 089 936
<b>Office location</b>	800 Toorak Road Hawthorn East, Victoria
<b>Annual revenue</b>	\$37,408 million <sup>233</sup>

<sup>228</sup> Year ended 30 June 2020 - Woolworths 2020 Annual report, page 3 – annexed as **Annexure 38**.

<sup>229</sup> As at 30 June 2020 - Woolworths 2020 Annual report, page 2 – annexed as **Annexure 38**.

<sup>230</sup> [https://www.wowcareers.com.au/page/Careers/Our\\_team/](https://www.wowcareers.com.au/page/Careers/Our_team/).

<sup>231</sup> Woolworths 2020 Annual report, page 2 – annexed as **Annexure 38**.

<sup>232</sup> <https://www.woolworthsgroup.com.au/page/about-us/our-brands/>.

<sup>233</sup> Year ended 30 June 2020 – see Coles 2020 Annual Report, page 98 – annexed as **Annexure 39**.

<b>No. of employees</b>	120,000 <sup>234</sup>
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Coles Group Limited (ASX: COL) is one of Australia’s largest retailers, with more than 2,500 outlets across its portfolio of Australian supermarkets, liquor and convenience stores.<sup>235</sup> Coles Group started in 1914 when G.J. Coles opened its first store in Collingwood, Victoria and today services approximately 21 million customers who shop with the Coles Group each week.<sup>236</sup>

The Coles Group brands include:<sup>237</sup>

- (a) Coles supermarkets, with over 800 stores nationally;
- (b) Coles.com.au (Coles online), the online platform allows customers to browse categories, add essential items to their trolley, and have their order delivered straight to their kitchen bench or brought out to their car;
- (c) Coles Express, with a network of over 700 sites nationally;
- (d) First Choice Liquor Market;
- (e) Liquorland;
- (f) Vintage Cellars; and
- (g) First Choice Liquor.

More information can be found here: <https://www.colesgroup.com.au/about-us/?page=about-us>. Coles’ 2020 Annual Report can be found here: <https://www.colesgroup.com.au/investors/?page=reports>.

### 13 Bank of Queensland Limited

<b>ACN</b>	32 009 656 740
<b>Office location</b>	100 Skyring Terrace, Newstead Queensland
<b>Annual revenue</b>	\$115 million (statutory net after tax) <sup>238</sup>
<b>No. of employees</b>	2,021 <sup>239</sup>

Bank of Queensland Limited (ASX: BOQ) is one of Australia’s leading regional banks with most of its branches run by local Owner-Managers.<sup>240</sup> BOQ has more than 160 branches across Australia and has been operational since 1874.<sup>241</sup> BOQ is one of the top 100 Australian companies ranked by market capitalisation

<sup>234</sup> <https://au.linkedin.com/company/coles>.

<sup>235</sup> <https://www.colesgroup.com.au/about-us/?page=about-us>.

<sup>236</sup> <https://www.colesgroup.com.au/about-us/?page=our-history>.

<sup>237</sup> <https://www.colesgroup.com.au/about-us/?page=about-us>.

<sup>238</sup> Year ended 31 August 2020 – see BOQ 2020 Annual Report, page 4 – annexed as **Annexure 40**.

<sup>239</sup> As at 31 August 2020 – see BOQ 2020 Annual Report, page 28 – annexed as **Annexure 40**.

<sup>240</sup> <https://www.boq.com.au/About-us/company-overview>.

<sup>241</sup> <https://www.boq.com.au/About-us/company-overview>.

on the Australian Securities Exchange and are regulated by the Australian Prudential Regulation Authority as an Authorised Deposit-taking Institution.<sup>242</sup>

BOQ is listed on the ASX (trading under 'BOQ') – a copy of the 2020 Annual Report is included at <https://www.boq.com.au/content/dam/boq/files/shareholder-centre/financial-results/2020/annual-report-2020.pdf>

BOQ offers a range of these products and services to individuals, as well as businesses across two primary segments:<sup>243</sup>

**Retail banking**

BOQ is the retail arm of the BOQ Group and is comprised of 165 branches across Australia offering a range of banking products.

Virgin Money Australia, the digital first retail financial services company providing a wide range of financial products.

**BOQ business**

BOQ Business, a relationship led business with specialist bankers providing client solutions across Small Business, Agribusiness, Corporate Banking, Property Finance, Healthcare & Retirement and Tourism, Leisure & Hospitality.

BOQ Finance, is a wholly owned subsidiary of BOQ Group Limited specialising in asset finance and leasing solutions.

BOQ Specialised, delivering banking solutions to niche market segments including medical, dental, veterinary and accounting professionals.

More information can be found here: <https://www.boq.com.au/About-us>.

BOQ's 2020 Annual Report can be found here:

<https://www.boq.com.au/content/dam/boq/files/shareholder-centre/financial-results/2020/annual-report-2020.pdf>

**14 EFTEX**

<b>ACN</b>	059 318 811
<b>Office location</b>	Level 7, 140 William Street, East Sydney NSW 2011
<b>Annual revenue</b>	-
<b>No. of employees</b>	Unknown

EFTEX is an Australian payments processing and acquiring services provider.<sup>244</sup> For more than 20 years EFTEX have delivered a range of solutions to POS and ATM terminal networks including transaction processing and acquiring, terminal driving and monitoring.<sup>245</sup> EFTEX is a wholly owned subsidiary of The Banktech

<sup>242</sup> <https://www.boq.com.au/About-us/company-overview>.

<sup>243</sup> BOQ 2020 Annual Report, page 13 – annexed as **Annexure 40**.

<sup>244</sup> <https://www.eftex.com.au/about-us/>.

<sup>245</sup> Please see <https://www.eftex.com.au/about-us/>.

Group and is a member of eftpos Payments Australia, along with holding an Exchange Settlement Account with the RBA.<sup>246</sup>

EFTEX is an approved third-party processing partner with VISA, Mastercard, American Express, and BancNet. In addition, EFTEX have direct ATM switching and acquiring relationships with ANZ and WBC in Australia.

Today EFTEX drives more than 15,000 ATM and POS terminals across Australia, New Zealand and Southeast Asia and processes more than \$15 billion worth of transactions annually.<sup>247</sup>

More information can be found here: <https://www.eftex.com.au/about-us/>

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## 15 First Data Network Australia Limited

<b>ACN</b>	Unknown
<b>Office location</b>	Unknown
<b>Annual revenue</b>	US\$10.2 billion <sup>248</sup>
<b>No. of employees</b>	Unknown

First Data Network Australia Limited, trading as Fiserv, is a leading global provider of financial services technology and is publicly traded on the NASDAQ Global Select Market and part of the S&P 500 Index (ticker FISV). First Data Network serves clients around the globe, including banks, credit unions, other financial institutions and merchants.

First Data Network provides:

- (a) account processing systems;
- (b) electronic payments processing products and services, such as electronic bill payment and presentment services, account-to-account transfers, person-to-person payments, debit network solutions, debit card processing and services, general purpose credit, retail private label and commercial credit card processing and services, and payments infrastructure services;
- (c) internet and mobile banking systems; and
- (d) related services, including card and print personalization services, item processing and source capture services, loan origination and servicing products, stored value network solutions and fraud and risk management products and services.

First Data Network also provides retail POS merchant acquiring and e-commerce services as well as next-generation offerings such as mobile payment services, and its cloud-based “Clover” line of payment solutions and related applications. Most of the services it provides are necessary for its clients to operate their businesses and are, therefore, non-discretionary in nature.

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<sup>246</sup> Please see <https://www.eftex.com.au/about-us/>.

<sup>247</sup> Please see <https://www.eftex.com.au/about-us/>.

<sup>248</sup> Fiserv 2019 Annual Report (Form 10-K), page 5 – annexed as **Annexure 41**.



First Data Network services a global client base by working among geographic teams across various regions: the United States and Canada; Europe, Middle East and Africa; Latin America; and Asia Pacific.

In 2019, First Data Network had US\$10.2 billion in total revenue, US\$1.6 billion in operating income and US\$2.8 billion of net cash provided by operating activities from continuing operations. Processing and services revenue, which in 2019 represented 84% of total revenue, is primarily generated from account- and transaction-based fees under multi-year contracts that generally have high renewal rates. First Data Network have operations and offices located both within the United States and outside of the U.S. with revenues from domestic and international products and services accounting for 88% and 12% respectively.

Fiserv's 2019 Annual Report (Form 10-K) can be found here: <https://investors.fiserv.com/static-files/b6d7ad21-d0e6-4ea4-b41d-a85271aca54c>.

## 16 Suncorp Group

<b>ABN</b>	66 010 831 722
<b>Office location</b>	Level 28, 266 George St, Brisbane, QLD 4000
<b>Annual revenue</b>	\$14,770m (FY20) <sup>249</sup>
<b>No. of employees</b>	13,500 <sup>250</sup>

Suncorp Group (ASX: SUN) is a Queensland-based financial services conglomerate offering retail and business banking, general insurance, life insurance, superannuation and investment products in Australia and New Zealand. Suncorp Group offers its banking products through Suncorp Metway Ltd (AFSL No 229882 Australian Credit Licence number 229882).

Suncorp Group has following two core businesses: Insurance and Banking and Wealth.<sup>251</sup>

- (a) **Insurance:** In Insurance segment they design, manufacture and delivery of general insurance products and services to customers in Australia. Their key insurance products include home and contents, motor, marine, travel, commercial property, industrial special risk, public liability and professional indemnity, workers' compensation, compulsory third party, loan protection, equity and cash benefit.
- (b) **Banking and wealth:** This division provides designs, manufacture and delivery of banking, financial planning, and superannuation and fund administration services to customers in Australia. Their key products include commercial, agribusiness, small business, home and personal loans, savings and transaction accounts, foreign exchange, treasury products and services, superannuation, funds administration services and financial planning.

<sup>249</sup> Year ended 30 June 2020 – see Suncorp Group 2020 Annual Report, page 59 – annexed as **Annexure 42**.

<sup>250</sup> As at 30 June 2020 - Suncorp Group 2020 Annual Report, page 1 – annexed as **Annexure 42**.

<sup>251</sup> <https://www.suncorpgroup.com.au/uploads/About-Suncorp-group-A4P.pdf>.

- (c) **Suncorp New Zealand:** This division provides design, manufacture and delivery of general and life insurance products to customers in New Zealand. Their key insurance products include home and contents, motor, commercial property, public liability and professional indemnity, life, trauma, total and permanent disablement and income protection.

More information can be found here: <https://www.suncorp.com.au/about-us.html>.  
[Suncorp Group's 2020 Annual Report can be found here: https://www.suncorpgroup.com.au/2020-annual-review.](https://www.suncorpgroup.com.au/2020-annual-review)

## 17 Tyro Payments Limited

<b>ACN</b>	103 575 042
<b>Office location</b>	Level 1, 155 Clarence St, Sydney, NSW 2000
<b>Annual revenue</b>	\$189.8m (FY19) <sup>252</sup>
<b>No. of employees</b>	450 <sup>253</sup>

Tyro Payments Limited (ASX: TYR) is a technology-focused and values-driven company providing Australian businesses with payment solutions and value-adding business banking products. Tyro provides simple, flexible and reliable payments solutions as a merchant acquirer, along with complementary business banking products.<sup>254</sup>

### Payments<sup>255</sup>

This segment acquires electronic payment transactions from merchants. Revenue is primarily earned from fees charged for processing acquired transactions. Revenue is also earned from other fee income, terminal rental income and sales of terminal accessories.

Payments are at the core of Tyro's business, using its proprietary core technology platform to enable credit and debit card acquiring. This offering is enhanced by features purpose-designed for those merchants who choose to partner with the company, including Point of Sale systems integrations, least-cost routing (Tap & Save) and alternative payment types such as integrated Alipay. While traditionally focused on in-store payments, Tyro has recently expanded into eCommerce.

### Banking<sup>256</sup>

Tyro offer business banking products to merchants, including loans in the form of merchant cash advances (Tyro Business Loan) and transaction bank accounts (Tyro Bank Account). The Tyro Bank Account is a fee-free, interest-bearing transaction account available to our merchants.

Tyro is Australia's fifth largest merchant acquiring bank by number of eftpos terminals in the market, behind the Major Australian Banks. Tyro has a track

<sup>252</sup> As at 30 June 2020 – see Tyro 2020 Annual Report, page 4 – annexed as **Annexure 43**.

<sup>253</sup> <https://www.listcorp.com/asx/tyr/tyro-payments-limited#about>.

<sup>254</sup> <https://www.listcorp.com/asx/tyr/tyro-payments-limited#about>.

<sup>255</sup> <https://www.listcorp.com/asx/tyr/tyro-payments-limited#about>.

<sup>256</sup> <https://www.tyro.com/products/>.

record of innovation, creating purpose-built solutions and being first to market<sup>257</sup>. This approach saw the company become the first technology company to receive an Australian specialist credit card institution licence in 2005.<sup>258</sup> In 2015 that licence was replaced by the award of an Australian banking licence, making Tyro the first new domestic banking licensee in over a decade.

For the more than 29,000 Australian merchants who chose to partner with Tyro in FY19, the company processed more than \$17.5 billion in transaction value.<sup>259</sup> In FY19 the company generated \$189.8 million in revenue, originated \$52.2 million in loans and held merchant deposits totalling \$26.9 million.<sup>260</sup> Further, Tyro provides value-adding solutions to its partners, such as loans in the form of merchant cash advances and fee-free, interest-bearing merchant transaction accounts.<sup>261</sup>

More information can be found here: <https://www.tyro.com/about-tyro/>. Tyro's 2020 Annual Report can be found here: <https://www.tyro.com/wp-content/uploads/2020/08/Tyro-AR-2020-18-Aug-2020.pdf>.

## 18 Windcave Pty Ltd

<b>ABN</b>	39 517 028 648
<b>Office location</b>	Level 3, 503-505 Kent Street, Sydney, NSW 2000 (HQ in Auckland, NZ)
<b>Annual revenue</b>	Unknown
<b>No. of employees</b>	Unknown

Windcave (formerly Payment Express) is a global leader in payment technology with scheme connections to Visa, Mastercard, UnionPay, Amex and Discover as well as popular alternative and local payment methods. Windcave currently supports 17,000+ organisations across APAC, North America and Europe, processing over \$90 billion dollars a year and 800 million transactions. Payment services include eCommerce, Retail, Unattended and Merchant Services.

Windcave offers customers POS terminals for in-store payments, an all-in-one payment solution for online payments, and a range of unattended payment solutions (for vending machines and carparks, for example).

Windcave is a high-growth, innovative and global one-stop provider of payment technology, eCommerce, retail and unattended payment solutions for range of customers, including major corporate, banking and SME clients globally with our PCI DSS compliant payments solutions.<sup>262</sup> Windcave facilitates seamless eCommerce, retail and unattended transactions for customers around the world.<sup>263</sup>

<sup>257</sup> <https://www.tyro.com/about-tyro/>.

<sup>258</sup> <https://www.tyro.com/about-tyro/>.

<sup>259</sup> <https://www.tyro.com/about-tyro/>.

<sup>260</sup> Tyro 2020 Annual Report, page 4 – annexed as **Annexure 43**.

<sup>261</sup> <https://www.listcorp.com/asx/tyr/tyro-payments-limited#about>.

<sup>262</sup> <https://www.windcave.com/about>.

<sup>263</sup> <https://www.windcave.com/about>.

Certified with all the major credit card schemes and PCI DSS compliant, Windcave provides innovative end-to-end payment solutions ensuring your transactions are safe, smooth and secure.<sup>264</sup>

More information can be found here: <https://www.windcave.com/about>

## 19 Adyen

<b>ABN</b>	55 162 682 411
<b>Office location</b>	1/255 Riley St, Surry Hills NSW 2010 (HQ: Amsterdam)
<b>Annual revenue</b>	€496.7m <sup>265</sup>
<b>No. of employees</b>	1,200 <sup>266</sup>

Adyen (AMS: ADYEN) is the payments platform of choice for many of the world's leading companies, providing a modern end-to-end infrastructure connecting directly to Visa, Mastercard, and consumers' globally preferred payment methods. Adyen delivers frictionless payments across online, mobile, and in-store channels. With offices across the world, Adyen serves customers including Facebook, Uber, Spotify, Microsoft, Casper, Bonobos and L'Oréal.

Driven by a vision to improve customer experience, streamline processes and ultimately increase revenue, Adyen enables businesses to process payments across online, mobile and POS with over 250 payment methods and 187 transaction currencies.

Adyen operates a global payments platform, integrating the full payments stack — gateway, risk management, processing, acquiring and settlement.<sup>267</sup> The Adyen offering includes a common back-end infrastructure for authorizing payments across merchants' sales channels (ie online, mobile and in-store) as well as feature-rich APIs.<sup>268</sup>

This payments platform is provided as a service to a range of globally operating merchants across different verticals, connecting them directly to Visa, Mastercard, and many other payment methods, providing a high level of reliability, performance and data insights.<sup>269</sup>

For this service of payments processing, Adyen earns processing and settlement fees (for gateway and acquiring services respectively), as well as some smaller fees related to products or functionalities that make businesses' lives easier.<sup>270</sup>

More information can be found here: <https://www.adyen.com/about>. Adyen's 2019 Annual Report can be found here: <https://www.adyen.com/investor-relations/publication-annual-report-2019>.

<sup>264</sup> <https://www.windcave.com/about>.

<sup>265</sup> Year ended 31 December 2020 – see <https://www.adyen.com/investor-relations/publication-annual-report-2019/>.

<sup>266</sup> As at 31 December 2020 – see <https://www.adyen.com/investor-relations/publication-annual-report-2019/>.

<sup>267</sup> Adyen 2019 Annual report, page 9 – annexed as **Annexure 44**.

<sup>268</sup> Adyen 2019 Annual report, page 9 – annexed as **Annexure 44**.

<sup>269</sup> Adyen 2019 Annual report, page 9 – annexed as **Annexure 44**.

<sup>270</sup> Adyen 2019 Annual report, page 9 – annexed as **Annexure 44**.

## 20 Reserve Bank of Australia

<b>ABN</b>	50 008 559 486
<b>Office location</b>	65 Martin Place, Sydney NSW 2000
<b>Annual revenue</b>	Unknown
<b>No. of employees</b>	1,384 <sup>271</sup>

The RBA is Australia's central bank and derives its functions and powers from the *Reserve Bank Act 1959*.<sup>272</sup> Its duty is to contribute to the stability of the currency, full employment, and the economic prosperity and welfare of the Australian people.<sup>273</sup> It does this by conducting monetary policy to meet an agreed medium-term inflation target, working to maintain a strong financial system and efficient payments system, and issuing the nation's banknotes.<sup>274</sup>

The RBA provides certain banking services as required to the Australian Government and its agencies, and to a number of overseas central banks and official institutions.<sup>275</sup>

As well as being a policy-making body, the RBA provides selected banking and registry services to a range of Australian government agencies and to a number of overseas central banks and official institutions.<sup>276</sup> It also manages Australia's gold and foreign exchange reserves.<sup>277</sup>

More information can be found here: <https://www.rba.gov.au/about-rba/>. The RBA's 2020 Annual Report can be found here: <https://www.rba.gov.au/publications/annual-reports/rba/2020/pdf/2020-report.pdf>.

## 21 HSBC Bank Australia Limited

<b>ABN</b>	48 006 434 162
<b>Office location</b>	Level 36 - Tower 1 - International Towers Sydney   Barangaroo South 100 Barangaroo Avenue, Sydney NSW 2000, Australia
<b>Annual revenue</b>	\$330m (CY19) <sup>278</sup>
<b>No. of employees</b>	2,000 (Australia) <sup>279</sup>

HSBC is one of the world's largest banking and financial services organisations.<sup>280</sup> Listed on the London, Hong Kong, New York, Paris and Bermuda stock exchanges, shares in HSBC Holdings plc are held by

<sup>271</sup> As at 30 June 2020 - RBA 2020 Annual Report, page 140 – annexed as **Annexure 45**.

<sup>272</sup> <https://www.rba.gov.au/about-rba/>.

<sup>273</sup> <https://www.rba.gov.au/about-rba/>.

<sup>274</sup> <https://www.rba.gov.au/about-rba/>.

<sup>275</sup> <https://www.rba.gov.au/about-rba/>.

<sup>276</sup> <https://www.rba.gov.au/about-rba/>.

<sup>277</sup> <https://www.rba.gov.au/about-rba/>.

<sup>278</sup> <https://www.bankingday.com/article/hsbc-posts-record-australian-profit>.

<sup>279</sup> <https://www.about.hsbc.com.au/hsbc-in-australia>.

<sup>280</sup> <https://www.about.hsbc.com.au/>.

approximately 194,000 shareholders in 130 countries and territories.<sup>281</sup> HSBC's network covers 64 countries and territories in Europe, Asia, the Middle East and Africa, North America and Latin America, serving more than 40 million customers through our global businesses: Wealth and Personal Banking, Commercial Banking, and Global Banking & Markets.<sup>282</sup>

HSBC's Wealth and Personal Banking business offers various products and services to individuals, families, business owners, investors and entrepreneurs.<sup>283</sup> These include current accounts, credit cards, personal loans and mortgages, as well as savings, investments, insurance and wealth management.<sup>284</sup>

HSBC's Commercial Banking business services approximately 1.3 million customers across 53 countries and territories, supported by specialists in Global Trade and Receivables Finance, Global Liquidity and Cash Management, Banking, Markets and Securities Services, and Insurance and Investments.<sup>285</sup>

HSBC's Global Banking & Markets business provides financial services and products to corporations, governments and financial institutions.<sup>286</sup> These include banking and financing solutions; services in credit and rates, foreign exchange, equities and money markets; and a broad range of research services.<sup>287</sup>

In Australia, the HSBC Group offers a comprehensive range of financial services through a network of 45 branches and offices. These services include retail, wholesale and private banking, trade finance, treasury and financial markets, global liquidity and cash management, asset management and securities custody.<sup>288</sup> Principal HSBC Group members in Australia are HSBC Bank Australia Limited and The Hong Kong and Shanghai Banking Corporation Limited.<sup>289</sup> HSBC Bank Australia Limited — which is headquartered in Sydney — is an unlisted public company.<sup>290</sup>

More information can be found here: <https://www.hsbc.com/who-we-are>

## 22 Macquarie Bank Limited

<b>ACN</b>	008 583 542
<b>Office location</b>	Level 6, 50 Martin Pl, Sydney, NSW 2000
<b>Net Operating Income (MBL)</b>	\$6,1725m (FY20) <sup>291</sup>

<sup>281</sup> <https://www.hsbc.com/who-we-are>.

<sup>282</sup> <https://www.hsbc.com/who-we-are>.

<sup>283</sup> <https://www.hsbc.com/who-we-are/businesses-and-customers/wealth-and-personal-banking>.

<sup>284</sup> <https://www.hsbc.com/careers/our-business-areas-and-teams/wealth-and-personal-banking>.

<sup>285</sup> <https://www.hsbc.com/who-we-are/businesses-and-customers/commercial-banking>.

<sup>286</sup> <https://www.hsbc.com/who-we-are/businesses-and-customers/global-banking-and-markets>.

<sup>287</sup> <https://www.hsbc.com/who-we-are/businesses-and-customers/global-banking-and-markets>.

<sup>288</sup> <https://www.about.hsbc.com.au/hsbc-in-australia>.

<sup>289</sup> <https://www.about.hsbc.com.au/hsbc-in-australia>.

<sup>290</sup> <https://www.hsbc.com/investors/results-and-announcements/all-reporting/subsidiaries?page=1&take=20&company=hsbc-bank-australia-ltd&company-new=hsbc-bank-australia-limited>.

<sup>291</sup> <https://www.macquarie.com/au/en/investors/reports/full-year-2020.html>.

Net Operating Income (Globally across Macquarie Group)	\$12,325m (FY20) <sup>292</sup>
<b>No. of employees</b>  (Globally across Macquarie Group)	15,849 <sup>293</sup>

Macquarie Bank Limited is a subsidiary of Macquarie Group Limited ACN 112 169 279 and is regulated by APRA as an ADI.

Macquarie Group Limited (ASX: MQG) is a global provider of banking, financial, advisory, investment and fund management services, headquartered in Sydney. Macquarie Group Limited is regulated by APRA as a Non-Operating Holding Company of an ADI.

Macquarie Group is a diversified financial group providing clients with asset management and finance, banking, advisory and risk and capital solutions across debt, equity and commodities. For internal reporting and risk management purposes, Macquarie is divided into four Operating Groups, which are supported by four Central Service Groups. The Operating Groups are split between annuity-style businesses and markets-facing businesses and are described below.

#### **Macquarie Asset Management (MAM)**

MAM provides clients with access to a range of capabilities and products, including infrastructure, real assets, agriculture, equities, fixed income, private credit, liquid alternatives and multi-asset investment management solutions. It has two business divisions which are Macquarie Infrastructure and Real Assets and Macquarie Investment Management.

#### **Banking and Financial Services (BFS)**

BFS provides a diverse range of personal banking, wealth management and business banking and vehicle finance products and services to retail clients, advisers, brokers and business clients.

#### **Commodities and Global Markets (CGM)**

CGM provides clients with an integrated, end-to-end offering across global markets including equities, fixed income, foreign exchange, commodities and technology, media and telecommunications. CGM comprises eight divisions: Cash Equities, Commodity Markets and Finance, Credit Markets, Equity Derivatives and Trading, Fixed Income and Currencies, Futures, Specialised and Asset Finance and Central (CGM-wide services).

#### **Macquarie Capital (MacCap)**

MacCap provides advisory and capital raising services and undertakes global investing activities, offering specialist expertise across infrastructure, real estate,

<sup>292</sup> <https://www.macquarie.com/au/en/investors/reports/full-year-2020.html>.

<sup>293</sup> As at 31 March 2020 – see Macquarie Group 2020 Annual Report – annexed as **Annexure 46**.

telecommunications and media, technology, consumer, gaming and leisure, business services, resources, industrials, healthcare and financial institutions.

More information can be found here:

<https://www.macquarie.com/au/en.html>

Macquarie Bank Limited 2020 Annual Report can be found here:

<https://www.macquarie.com/assets/macq/investor/reports/2020/Macquarie-Bank-FY20-Annual-Report.pdf>

Macquarie Group's 2020 Annual Report can be found here:

<https://www.macquarie.com/assets/macq/investor/reports/2020/Macquarie-Group-FY20-Annual-Report.pdf>



## Schedule 4 Regulation by the RBA and PSB

The RBA is the principal regulator of the Australian payments system.

Under the *Reserve Bank Act 1959* (Cth), the PSB is responsible for determining the Bank's payments system policy.

The PSB is required to do this in a way that will best contribute to controlling risk in the financial system; promoting the efficiency of the payments system; and promoting competition in the market for payment services.

The RBA has a number of powers to pursue these goals, including the ability to "designate" a payment system as being subject to its regulation and then to impose standards and/or an access regime on that system or on participants in that system, if warranted on public interest grounds.

The RBA's Payments Policy Department advises the PSB in the discharge of these responsibilities. Aside from its interest in the NPP from a policy perspective, the RBA was involved in the development of the NPP and plays a number of roles in the ongoing operation and governance of the NPP:

- (a) The RBA is one of the 13 financial institutions that funded the development of the NPP and is a shareholder of NPPA.<sup>294</sup>
- (b) The RBA is a direct participant in the NPP in its capacity as a transactional banker to the Australian Government and its Departments and agencies. The RBA provides NPP services to its government clients, including the ability to make real-time payments and collect public monies via NPP payments to government accounts. These services are provided by the RBA's Banking Department. The RBA does not offer any banking or related services, including NPP-related services, to the public or non-government commercial entities.
- (c) The RBA built and operates the FSS, which provides real-time settlement of NPP transactions between financial institutions on a 24/7 basis. The RBA's Payments Settlements Department has responsibility for this function. Settlement services are provided to NPP participants under a contractual arrangement between NPPA and the RBA.
- (d) In recognition of the importance of the FSS to the operation of the NPP, the NPPA Shareholders' Agreement gives the RBA the right to appoint a director to the Board of NPPA. The Bank has exercised this right and appointed the Head of its Payments Settlements Department as a director of NPPA.

Given the duties of the RBA as regulator of the payments system and its involvement in the NPP from an operational perspective, the PSB has approved internal governance arrangements for the RBA's involvement with the NPP to ensure consistency with the PSB's policy objectives and to manage any potential conflicts of interest.

<sup>294</sup> The RBA has advised NPPA that if NewCo proceeds to implementation, that the RBA will not continue as a shareholder in NewCo given its formal role as a regulator for services offered by NewCo.

## 2 PSB

### 2.1 Responsibilities and Powers<sup>295</sup>

The PSB's responsibilities and powers are set out in four separate Acts.

These are: *Reserve Bank Act 1959* (Cth); *Payment Systems (Regulation) Act 1998* (Cth); *Payment Systems and Netting Act 1998* (Cth); and *Cheques Act 1986* (Cth).

The *Reserve Bank Act 1959* (Cth) gives the PSB responsibility for determining the RBA's payments system policy. It must exercise this responsibility in a way that will best contribute to:

- (a) controlling risk in the financial system;
- (b) promoting the efficiency of the payments system; and
- (c) promoting competition in the market for payment services, consistent with the overall stability of the financial system.

Increasingly, central banks are being given explicit authority for payments system safety and stability, but the PSB's legislative responsibility and powers to promote efficiency and competition in the payments system are unique.

This responsibility has broadened the RBA's traditional focus on the high-value wholesale payment systems which underpin stability, to encompass the retail and commercial systems where large transaction volumes provide scope for efficiency gains.

The RBA's wide-ranging powers in the payments system are set out in the *Payment Systems (Regulation) Act 1998* (Cth). It may:

- (a) "designate" a particular payment system as being subject to its regulation. Designation has no other effect; it is simply the first of a number of steps the RBA must take to exercise its powers;
- (b) determine rules for participation in that system, including rules on access for new participants. Since access is inextricably linked to efficiency the Bank works closely with the Commission;
- (c) set standards for safety and efficiency for that system. These may deal with issues such as technical requirements, procedures, performance benchmarks and pricing;
- (d) direct participants in a designated payment system to comply with a standard or access regime; and
- (e) arbitrate on disputes in that system over matters relating to access, financial safety, competitiveness and systemic risk, if the parties concerned wish.

The *Payment Systems (Regulation) Act 1998* (Cth) also gives the RBA extensive powers to gather information from a payment system or from individual participants.

<sup>295</sup> Please see <https://www.rba.gov.au/about-rba/boards/psb-board.html>.

The *Payment Systems and Netting Act 1998* (Cth) gives the Board a role in removing two important legal uncertainties in the Australian payments system:

- (a) under the so-called 'zero hour' rule, a court may date the bankruptcy of an institution from the midnight before the bankruptcy order is made. Such a rule would threaten the irrevocable nature of payments in the RTGS system; the strength of this system is that payments cannot be unwound if a participant were to fail after having made payments earlier in the day. Similar concerns arise in the case of 'delivery-versus-payment' arrangements in securities settlement systems;
- (b) some payment systems in Australia settle on a multilateral net basis. Rather than routinely paying and receiving gross obligations, members of the system pay and receive the relatively small net amounts owed 'to the system'. This is convenient and efficient but carries the risk that in the event of the bankruptcy of one of the parties, its administrator might 'cherry pick' and insist that solvent institutions meet their gross obligations to pay it while refusing to honour its obligation to do likewise. Solvent parties would then receive little in return for their payments to the failed institution, putting them under liquidity pressures and threatening their own solvency.

The *Payment Systems and Netting Act 1998* (Cth) provides the basis for removing these uncertainties. The Act exempts transactions in approved RTGS systems from a possible 'zero hour' ruling and ensures that approved multilateral netting arrangements cannot be set aside. The Act does not specify which particular systems are exempt; instead, as a means of providing flexibility, the RBA has been given the power to approve RTGS systems and multilateral netting arrangements which apply for such approval.

The *Cheques Act 1986* (Cth) was amended in 1998 to provide that cheques that are settled in a recognised settlement system will be deemed dishonoured if the financial institution on which they are drawn is unable to provide the funds. This gives an important protection to institutions at which such cheques are deposited, because it allows them to reverse any provisional credits made on the basis of these cheques. The RBA has been given responsibility under the *Cheques Act 1986* (Cth) to determine that a system for settlement of cheques is a recognised settlement system.

The PSB acquired additional responsibilities for the regulation of securities clearing and settlement systems with the passage of the *Financial Services Reform Act* in August 2001.

## 2.2 Members of the PSB

The membership of the PSB is specified in section 25A of the *Reserve Bank Act 1959* (Cth) and includes:

- (a) the Governor of the RBA (Chair of the Payments System Board);
- (b) one representative of the RBA (who is appointed by the Governor and who must be either a member of the RBA Board or a member of the RBA service; Deputy Chair of the Payments System Board);
- (c) one representative of APRA (who is appointed by APRA and who must be either an APRA member or an APRA staff member); and
- (d) up to five other members (who are appointed by the Treasurer for a term of up to five years).

The current members of the PSB are Phillip Lowe (Chair), Michele Bullock (Deputy Chair), Wayne Byres, Gina Cass-Gottlieb, Deborah Ralston, Greg Storey, Catherine Walter AM, Brian Wilson AO.

The PSB meets once per quarter, usually in Sydney.

### 2.3 Relationship with the Reserve Bank Board and the Government

The *Reserve Bank Act 1959* (Cth) provides a clear delineation between the PSB, which has responsibility for the RBA's payments system policy, and the RBA Board, which has responsibility for the RBA's monetary and banking policies and all other policies except for payments system policy.

Instances of conflict over policies should therefore be rare. However, if a conflict were to arise, the view of the RBA Board would prevail to the extent that there was any inconsistency in policy. If there are disagreements between the Boards on questions of jurisdiction or inconsistency of policy, they are to be resolved by the Governor, who chairs both Boards.

The PSB is required to inform the Government of its policies. In the event of a difference of opinion between the Government and the Board, the provisions of the *Reserve Bank Act 1959* (Cth) provide a mechanism for dispute resolution

Five members form a quorum for a meeting of the PSB, which must be chaired by the Governor or, in his absence, the Deputy Chair, who is a representative of the RBA. The *Reserve Bank Act 1959* (Cth) provides for decisions to be reached by a majority of the votes of the members present and voting, with the Chair having a casting vote, if necessary, in addition to a deliberative vote.

### 2.4 The role of the PSB

The PSB is one of two boards of the RBA, along with the RBA Board. The PSB is responsible for the RBA's payments system policy, including policy in relation to clearing and settlement (CS) facilities. It is chaired by the Governor of the Bank and has up to seven other members.

The RBA has a number of powers to pursue these goals, derived from a range of legislation. These powers include:

- (a) "designating" a payment system as being subject to regulation;
- (b) imposing an access regime to establish rules of participation in a payment system;
- (c) setting standards for payment systems;
- (d) giving a direction to, gathering information from, and arbitrating between, payment system participants;
- (e) setting financial stability standards for CS facilities assessing compliance of CS facilities with financial stability obligations; and
- (f) advising the Minister on matters related to the licensing of CS facilities.<sup>296</sup>

<sup>296</sup> Please see <https://www.rba.gov.au/payments-and-infrastructure/role-of-payments-system-board/>.

The designations made, and the standards set, in relation to eftpos are considered in section 12.6 above, and no access regime has been imposed on eftpos.

No such designations, access regimes or standards have been made or imposed in relation to the NPPA or BPAY.

## Schedule 5 Developments in payments industries outside Australia

### 1 Case Study: Consolidation of Singapore's Domestic Payment Entities<sup>297</sup>

The press release of 11 April 2017 announced the consolidation of the management and operation of Singapore's various domestic payment systems into one entity. It noted that NETS, Singapore's leading payment solutions provider, had signed an agreement to buy two wholly-owned subsidiaries of OCBC Bank, BCS and BCSIS. Upon the completion of the transaction, BCS and BCSIS were to become wholly owned subsidiaries of NETS, with both companies continuing to operate as independent entities within NETS. This would bring together payment systems covering domestic debit cards, RTP, ACH/DE/Giro, cheque clearing and RTGS.

This paper explores the market conditions and structure prior to the change, the reasons behind the consolidation and the outcomes since.

#### (a) What were the market conditions and structure prior to the change?

Before the consolidation, NETS was a leading payments network in Singapore and operated Singapore's national PIN Debit scheme. Cards issued by participating banks DBS Bank, Maybank, HSBC Bank, OCBC Bank, Standard Chartered Bank and UOB can be used to make NETS debit payments just about everywhere in Singapore. NETS has a comprehensive range of payment solutions that are accepted across 102,000 NETS card acceptance points, 40,000 Unified Point-of-Sale (Unified POS) terminals and 55,000 QR Code acceptance devices nationwide.

In addition, NETS issued the CashCard that is used extensively in the motoring market in Singapore, and the FlashPay (contactless) card that can be used for public transport payments, as well as payments at major retailers, food courts, convenience stores, supermarkets, etc. eNETS online payments can be made across many online and mobile merchants including government websites, airlines bookings and on AXS m-station, Taobao.com and Tmall Marketplace. BCA and UnionPay cards are also accepted on the NETS network.

As far back as 2006, NETS had identified the competitive threat of the ICS and took steps to increase its very low merchant fees in order to provide funding to issuers, so that the attractiveness of issuing cards of other schemes would be diminished. It also expanded into contactless cards and online payments to ensure that it remained relevant and convenient to consumers. It had very high brand recognition amongst consumers in Singapore, and was well known as being Singaporean.

In contrast, the names of the other two entities involved in the consolidation were unknown to the public. BCS was established in Singapore in 1976, and it has operated the Singapore Automated

<sup>297</sup> This case study was originally written by The Initiatives Group for BPAY in January 2020; BPAY has provided its permission for the inclusion of the case study in this document.

Clearing House since 1982, when the Singapore Clearing House Association (SCHA) awarded BCS the contract to set up and operate an automated clearing system to clear Singapore dollar cheques. As at 2017, BCS managed and operated the key clearing and payment infrastructure in Singapore including core services such as the FAST (Fast And Secure Transfers – real time payments system), IBG (Inter-bank GIRO – DE/ACH) and CTS (Cheque Truncation System – cheque processing).

BCSIS was more focused on technology, and, for example, was the systems integrator for Singapore’s FAST real-time payment infrastructure. Since 1988, BCSIS’ suite of clearing and payment solutions has allowed central banks, clearing houses and commercial banks across the globe to deliver high-speed, high-precision multi-currency funds transfer capabilities for the financial services industry. BCSIS’ RTGS, Cheque Truncation and Gateway solutions have been used by clients in Bahrain, Brazil, China, Hong Kong SAR, Indonesia, Malaysia, Singapore, Sri Lanka, and Taiwan.

BCSIS’s professional services and products encompass design and development of solutions for cheque clearing, lockbox services, document digitisation and imaging, and business continuity services. The BCSIS team brought together a synergy of technical, operational and project management expertise, leveraging on extensive and successful deployments of mission-critical payment systems for the financial services industry.

Despite the availability of these electronic payment systems, however, Singapore consumers only made about 200 electronic payments per person in the 2016/17 financial year, compared to ~450 in Australia. As cash still made up 60% of consumer payments.

(b) **Why did the consolidation occur?**

- (i) Just a few players dominate the current international card network industry. Among these global players, Visa and MasterCard (outside of mainland China) enjoy the dominant market share. In recent years, there had been an increasing trend of regulators stating that lack of competition between these global players has led to a high cost of card acceptance, particularly for small merchants, which has led to regulators promoting domestic schemes. Many regulators around the world were or are taking action, either explicit or implicit, to protect their domestic debit payment card systems from assault or erosion by the international payment card schemes, in order to avoid having their retail payment system controlled totally by foreign entities, which for the most part are outside of their jurisdiction.
- (ii) Additionally, in most countries with domestic debit schemes, there is a bias in the usage of these cards to the lower socio-economic segments of the community. This may be due to historic reasons, but is also impacted by the fact that –
  - (A) many of the “low price” merchants with whom they transact prefer the lower acceptance costs of domestic debit cards;
  - (B) they may not require the cross-border functionality of international scheme cards; and

- (C) they may not “qualify” for the issuance of an international scheme card.
- (iii) Furthermore, for many regulators the in-country processing of domestic payment card transactions is preferred due to data privacy concerns and its ability to be regulated by local authorities. These factors led to regulators establishing/encouraging new domestic payment card schemes where none previously existed. For example: Troy in Turkey, RuPay in India and Mir in Russia. Their focus has been mainly on debit cards, which provide cost-efficiency - an important factor as they form the majority (and in many countries an increasing proportion) of domestic card transactions, both by volume and value.
- (iv) Despite the regulatory preference for, and cost efficiency of, domestic debit card systems, the growth of the international card networks has continued aided by their additional functionality (usually cross-border and online acceptance being the differentiators to domestic debit) and the card issuers, who prefer the higher revenues of the network interchange model versus the domestic debit schemes - which usually provide a lower cost of card acceptance to merchants, but thereby generate lower revenue opportunities for issuers. This has led to declining share in the debit card market for domestic schemes, and, in those countries where the debit product of the ICS has been on issue for some years, actual declines in transaction volumes.
- (v) The traditional model whereby domestic debit schemes could concentrate on meeting local in-market needs and then cobrand with either MasterCard or Visa for international usage no longer seems to be an option. The ICS are clearly seeing the domestic schemes, and also domestic infrastructure providers, as competitors and a major impediment to gaining share and revenue from the overall market – areas which are now much more important following the stock market listing of these entities.
- (vi) Globally, regulators are playing a more active role in establishing either a cooperative or competitive position between domestic schemes/switches and international card associations. To counteract pressure from the ICS, in those countries where there are a number of competing domestic schemes or switches, there have been moves by regulators to merge the local schemes in a bid to increase efficiency and bolster competition against the international networks; examples of these mergers have taken place in the Philippines and Indonesia, leading to the formation of “new” BancNet (including MegaLink) and National Payment Gateway respectively.
- (vii) Therefore, conditions were right for “bulking up” the domestic NETS debit card operations into a larger, more robust “Payments Singapore” entity, in order to be a stronger competitor in the payments market.
- (c) **What happened in the consolidation?**
- (i) NETS' strategic acquisition of BCS and BCSIS was aimed at enabling it to deliver payment innovations that are simple, swift, secure and accessible to its customers, potentially developing



completely new forms of payment across the different streams and thereby improving its competitive position. The assimilation into one entity was thought to enable a more pervasive digital payment platform that will facilitate wider adoption and utilisation of electronic payments in Singapore, which was lagging in the number of electronic payments per person versus some other advanced economies. The move by NETS was in line with Singapore's efforts to become a best-in-class electronic payments hub, creating opportunities to drive enhancements and foster collaborations that will support faster transition to a world-leading ecosystem.

- (ii) Indeed the consolidation was endorsed and encouraged by the Monetary Authority of Singapore (MAS), which one might suppose sensed that a united "Payments Singapore" entity would have more critical mass and capabilities with which to meet competition from international payment schemes, such as American Express, Mastercard and Visa. Discussions between MAS and management teams in the Singapore payments systems appear to have confirmed information and observations that MAS had gathered from its regular discussions with regulators in other jurisdictions.
- (iii) As at 2017, the ongoing challenge for NETS was to continue to invest in the latest available technologies in the marketplace, in order to remain competitive with the global players. Despite a lower innovation budget than the international players, with their global R&D capabilities, a local player like NETS, because of its proximity to, and knowledge of, the local Singapore market and its idiosyncrasies could hope to develop some unique capabilities. But in combination with the payment streams managed by BCS and BCSIS, the thought was that truly unique and differentiated products could be brought to the Singapore payments market. The hope being that such tailored offerings would counteract:
  - (A) the ability of the ICS to utilize extensive financial resources, particularly in the form of incentives, to persuade issuers to switch to their brands; and their ability to provide incentives in one specific market at a time, whilst spreading the cost across their global network;
  - (B) banks wanting to be able to enjoy scale-pricing benefits for larger volumes: that is, for a multi-country retail bank this can mean consolidation across multiple borders, and therefore domestic schemes/networks can be an impediment to this; and
  - (C) domestic schemes have stated that they sometimes do not have a level playing field in terms of regulations compared to their international competitors.
- (d) **What have been the outcomes and/or expected benefits/issues of the consolidation?**
  - (i) The new combined NETS business remains a cornerstone of payments in Singapore. No new payment products have yet appeared from the ability to link different payment streams, but the organisation clearly now has "more strings to its bow".

- (ii) The business has combined the back-office and corporate functions, achieving overall cost reductions, as this was more straightforward to implement. The business synergies through the consolidation of the different pieces of infrastructure (eg the multiple payments switches now held within the one business) are harder to implement, but management is looking at different vendors that could achieve a more streamlined and consolidated arrangement.
- (iii) For now, the separate payment streams are still run separately, partly because there is a higher regulatory burden on the systems operated by BCS and NETS management prefers to “quarantine” this to a specific subsidiary company for the time being. However, there is now coordination of “mandates” and innovation across all of the payment streams, particularly where they are targeting similar types of transactions eg P2P, C2B, etc.; so that “national roll outs” can be undertaken smoothly and without conflict.
- (iv) By having all three major domestic banks involved in the ownership of all of the payment streams, the consolidation has led to improved “buy in” to decision-making across the different activities and in the setting of priorities.
- (v) Over the last 2 years, MAS has made further “interventions” into the market, which have deflected some of NETS’ attention from extracting more synergies from the consolidation. Notably to attack cash usage at low value merchants, MAS launched a single standardized QR Code for electronic payments, and NETS was obliged to introduce QR Codes on multiple devices for its e-payments. Singapore Quick Response Code (SGQR) has been adopted by 27 separate payment schemes, including the key domestic systems such as NETS debit cards, PayNow (bill payments) and FAST. Interestingly, this has made Singapore one of the few markets in Asia that has embraced both QR Codes and NFC contactless payments.
- (vi) Additionally, NETS was appointed as the first “master acquirer” to introduce a unified cashless payment system to the more than 12,000 stalls at hawker centres, canteens and coffee shops in Singapore that previously were almost exclusively cash only. NETS will provide a unified POS terminal which can accept both chip and contactless cards, as well as process QR Code payments, and which will be rented at no charge to hawkers for a period of 3 years (subsidied by the Singaporean government).
- (vii) MAS has also pushed NETS to expand deployment of Unified POS. Historically merchants in Singapore have often had multiple card acceptance terminals on their counter, which can lead to additional cost and inefficiency across the whole payments network. This is addressed by replacing the multiple terminals with a single Unified POS.
- (viii) Another important development is the government announcement that it will open the interbank payment gateways to FinTech firms in 2019. This will bring non-bank e-wallets into the national electronic payment networks, and also spur digital innovation. Singapore has already formed a Direct FAST industry working group, which includes banks, non-banks and the MAS, to develop business and technical requirements for non-banks to connect directly to FAST.

- (ix) Singapore's domestic payment networks are regarded as some of the most successful in the world. This has been achieved through the continued development of innovative products, tailored to the specific needs of Singapore's consumers and businesses. The consolidation of all of the domestic payments systems into NETS should assist in achieving further innovation in the future.

## 2 Case Study: Consolidation of the United Kingdom's Domestic Payment Entities<sup>298</sup>

The 18<sup>th</sup> of October 2018 marked the new name for the relatively recently formed New Payment System Operator (NPSO) under the umbrella brand of "Pay.UK". This brought together several key companies that formed the core part of the UK domestic payments system, including: BACS Payment Schemes Limited; Cheque and Credit Clearing Company Limited; Faster Payments Scheme Limited; Mobile Payments Service Company Limited; UK Payments Administration Limited; and UTSP (Universal Trust Service Provider) Limited.

NPSO Limited (the legal entity is a company limited by guarantee, and therefore ostensibly has no shareholders, and subsequently changed its name to Pay.UK Limited) was part of the overhaul of payment services in the UK. This included the creation of the Payment Systems Regulator (PSR), who regulates systems operated by Pay.UK Limited. The PSR has as one of its three key objectives "*the development of and innovation in payment systems, in particular the infrastructure used to operate those systems*". Pay.UK brings together several of the regulated companies running payments infrastructure in the UK into one business, designed to help meet that PSR objective.

This paper explores the market conditions and structure prior to the change, the reasons behind the consolidation and the outcomes since.

### (a) What were the market conditions and structure prior to the change?

- (i) Prior to the Global Financial Crisis, the payments system in the UK was essentially run by the major clearing banks, such as Royal Bank of Scotland (RBS), Lloyds, Barclays, Halifax Bank of Scotland and HSBC (being the largest.) They had come together on payments systems where it was to their mutual benefit, with, for example, the establishment of BACS (Bankers Automated Clearing Service), and where it made sense to share the costs of large IT system infrastructure. RBS was also a major player in the payments market via its then subsidiary Worldpay, which offered acquiring, terminals and other payment infrastructure for numerous merchants, large and small.
- (ii) With the full impact of the Global Financial Crisis about to hit at the end of 2008 and with it the complete breakdown of RBS (and with it Worldpay), the aftermath made the UK Government understand that payments infrastructure was a systemic asset/risk for the overall economy. This (along with many other factors) led to the eventual creation of the [Payment Systems Regulator](#). The regulator was established following the UK Government's Treasury Consultation on "Opening Up UK

<sup>298</sup> This case study was originally written by The Initiatives Group for BPAY in January 2020; BPAY has provided its permission for the inclusion of the case study in this document.

Payments<sup>299</sup> and oversees several of the entities in the now combined into Pay.UK.

- (iii) The companies that the PSR regulates<sup>300</sup> are:
  - (A) MasterCard;
  - (B) Visa Europe;
  - (C) Northern Ireland Cheque;
  - (D) CHAPS;
  - (E) Bacs;
  - (F) C&C (Cheque & Credit);
  - (G) LINK (ATM Network); and
  - (H) Faster Payment Scheme.
- (iv) The last four in the above list are now owned by Pay.UK Limited. Presumably the additional subsidiaries of Pay.UK Limited, such as Paym, are also regulated by the PSR, although that is not immediately clear from their remit.
- (v) With cheque volume in the UK in steep decline (most retailers, including the very large chains and supermarkets no longer accept them for payment) and attitudes to cash changing, customers have been switching to credit and debit card payments. Visa is particularly strong in the debit card market, and contactless card usage has seen a huge boom in the last couple of years, especially in the debit arena.
- (vi) In addition, in the card acceptance part of the market companies such as Worldpay had grown rapidly and, along with the banks (and Vocalink, now part of MasterCard), were the main governors of the systems that sat behind a merchant accepting a card, especially in the retail setting. Online sales was another separate arena, where a number of other players, from (then) startups like Adyen to more established companies such as Ogone (both those companies strong in online travel eCommerce) were building their businesses to compete with the more established banks/players.
- (vii) LINK and BACS as brand names may have some limited degree of awareness for consumers. LINK appears on numerous ATMs across the country and most consumers will have heard of BACS as the provider of direct debits (a very common way in the UK to pay utility bills and the like) amongst other products. As the Faster Payments Service was relatively new, most consumers will just have known that their online transfers are nearly instant these days and have very little understanding of the systems that sat behind all of this, and they are probably even less aware of the PSR.

<sup>299</sup> Opening Up UK Payments report:

<https://www.gov.uk/government/consultations/opening-up-uk-payments>.

<sup>300</sup> PSR website: <https://www.psr.org.uk/payment-systems/who-we-regulate>.

- (b) **What happened in the consolidation and why did it occur?**
- (i) The UK Government's objective was several fold in terms of payments, and, although not an explicit objective (consolidation), their changes started the process for what has happened in the industry.<sup>301</sup> However, the main intention was to make sure that the payments system could withstand another Global Financial Crisis and/or the insolvency of a major bank involved in running any part of it. There have been numerous other changes that have been made (eg ring-fencing retail from investment banking and living company wills), but the Payment Systems Regulator is increasingly responsible (along with the Bank of England) for making sure that the UK payments system is resilient.
  - (ii) It is worth noting the key legal/statutory objectives that the PSR has summarized on its website:
    - (A) to ensure that payment systems are operated and developed in a way that considers and promotes the interests of all the businesses and consumers that use them;
    - (B) to promote effective competition in the markets for payment systems and services - between operators, Payment Service Providers and infrastructure providers; and
    - (C) to promote the development of and innovation in payment systems, in particular the infrastructure used to operate those systems.
  - (iii) Consolidation into what has become Pay.UK has undergone a fairly long gestation. In November 2016 the Payment Strategy Forum, established by the PRS in a Policy Statement from 2015, published "A Payments Strategy For the 21st Century – Putting the needs of users first". In response to this document, the PRS and the Bank of England (which, following the Global Financial Crisis, now have the overall financial resilience mandate for the UK) established the PSO Delivery Group to formulate a design, and provide recommendations, to consolidate three of the existing schemes (BACS, C&C and FPS) into what was then the NPSO and is now Pay.UK. There were many other recommendations in the report in addition to this specific one.
  - (iv) NPSO Limited/Pay.UK has as its purpose to be "*the pre-eminent body that will drive best in class payment infrastructure in the UK for the benefit of everyone*".<sup>302</sup> In its most recent Annual Report, this has been updated to read (within the Strategic Objectives section): "*To support a vibrant UK economy, enabling a globally competitive retail payments industry through the provision of robust, resilient, collaborative retail payment services, rules and standards for the benefit, and meeting the evolving needs, of all*

<sup>301</sup> The PSR has clear statutory objectives, namely (1) end-user interests (2) competition and (3) innovation. The resilience issue has emerged in recent years. The PSR was strongly modelled on utilities regulators such as Ofgem (gas and electricity) and Ofwat (water).

<sup>302</sup> This is part of the company's Articles of Association as well as produced on this internal (but publicly available) document: [https://www.wearepay.uk/wp-content/uploads/2018/07/180117\\_stakeholdereventslides.pdf](https://www.wearepay.uk/wp-content/uploads/2018/07/180117_stakeholdereventslides.pdf).

users.” This seems to be a narrower interpretation to focus on just retail payments.

- (v) Ultimately, the regulator kicked off the process by commissioning the Payment Strategy Forum. Its report was produced by being open to “*anyone with an interest in payments, involving over 300 individuals from the Payments Community. Consumers, businesses, government, regulators, banks and FinTechs*” all contributed via the various Working Groups. In the very comprehensive report, in section 5.147 they recommend bringing together the three retail interbank Payment Services Operators (BACS, C&C and FPS). The rationale behind this was that a key issue identified by the Payments Community was “*that multiple payment systems are unnecessarily complex, time consuming and costly for Payment Service Providers (PSP’s) to join and participate in. This acts as a barrier to direct entry for PSP’s, which in turn restricts competition in the downstream market.*”
- (vi) Hence it would appear that a driving force behind the consolidation was the need to improve competition. The report goes on to recommend that what is now Pay.UK also be responsible for delivering the New Payment Architecture. This recommendation in the report has now become reality. Rather like elephants, who also go through a very long pregnancy, the product, although very big, is still very young and much remains to be seen.

(c) **What have been the outcomes and/or expected benefits/issues of the consolidation?**

- (i) The PSO Delivery Group aimed for the NPSO/Pay.UK to become operational in Q2 2018,<sup>303</sup> and the program has all been running to schedule. The NPSO/Pay.UK had three phases to its program, the first being the “transition” (setting up NPSO Limited, and companies like BACS becoming subsidiaries) with “transfer” being the next step. This was to establish NPSO as the recognised system operator.
- (ii) The final stage was classed as “transformation”, whereby they would pursue a strategic operating model and, one assumes, the delivery of the New Payment Architecture objective that the merger and structure are designed to enable.
- (iii) In terms of innovations (which may or may not have occurred within the old structure), Paym has been integrated with Siri and Whatsapp for some participant banks in 2018.<sup>304</sup> The rest of the payment systems under the new company’s control saw growth in volumes, although the Faster Payments Service also experienced its first ever scheme-wide outage. Again, this may or may not have happened anyway under the previous structure.
- (iv) This all relates to the existing systems and not the remit that the new consolidated entity has yet to deliver: the New Payments Architecture (NPA). The design and delivery of this is no small task, given that it can be likened to installing new plumbing in an

<sup>303</sup> The schematic for this is shown here and taken from the Payments Forum report: <https://implementation.paymentsforum.uk/sites/default/files/pictures/timeline%20alt%20.jpg>

<sup>304</sup> Pay.UK 2018 Annual Report and Accounts: <https://www.wearepay.uk/wp-content/uploads/2019/09/Pay.UK-2018-Annual-Report.pdf>.

old and very sprawling building. The existing system works and most stakeholders (and in the NPA world these are numerous and not all with the same objectives) agree there are other, better ways of doing it. However, to continue the analogy, ripping up the existing system is going to be costly and unpleasant (in plumbing terms), and even running a new system in parallel alongside is also fraught with issues.

- (v) It is in the NPA that some of the eventual outcomes of the consolidation get, perhaps, slightly cloudier. In May 2019, the regulator for what is now Pay.UK, the PSR, wrote an open letter to them<sup>305</sup> pointing out, amongst other things, requirements in the competitive procurement process for the NPA and mentioning the risk and issues to consider. The bidding process is now underway, but it is highly unusual for a regulator to go “public” with its concerns for the overall project.
- (vi) Not only have the regulators had concerns, but other commentators within the financial services industry have voiced a number of other additional issues. These cover areas such as transparency in terms of who the guarantors of Pay.UK Limited are and the same media article points out concerns about lessons learnt from other projects that the Bank of England (the legal owners of the PSR regulator) have undertaken.<sup>306</sup>
- (vii) Several of the companies that are now subsidiaries of Pay.UK are all operationally run by Vocalink, which was acquired by MasterCard in 2018. This may be the rationale behind the “strategic operating model” being the third part of the Pay.UK development.
- (viii) In summary, some of the expected benefits have yet to appear, although given the scale of the UK Payments infrastructure delivering something new is not an overnight task. In terms of greater competition and ease of use for payment service providers, whilst there has been a proliferation in FinTechs (eg Revolut; Monzo) there appears little evidence to show that this would not have happened within the previous structure.
- (ix) Beyond the complexity of setting up the organisation and managing multiple (often competing) views, other challenges have arisen, such as managing the role of Mastercard, who are now at the core of running the physical infrastructure in Vocalink and, as any commercial company, will want to see a positive return on its investment. Another relates to fraud/scams (for Authorised Push Payments) of money being sent to the wrong account: in the UK a number of these have been mortgage related (so large sums of consumers’ money involved), where the fraudsters have managed to instruct the customer to transfer the funds to another account rather than the ones given to them by their solicitor. The issues and challenges from this have clearly taken time and effort from Pay.UK, and they are still

<sup>305</sup> Open letter from PSR to Pay.UK dates 29 May 2019

<https://www.psr.org.uk/sites/default/files/media/PDF/20190529-PSR-Open-letter-to-PayUK.pdf>.

<sup>306</sup> Finextra comment piece from 13<sup>th</sup> of August: <https://www.finextra.com/blogposting/17745/payuk-governance-and-ongoing-indications-of-a-fiasco>.

working their way to an acceptable industry and consumer solution.<sup>307</sup>

- (x) Some industry observers<sup>308</sup> view the new structure as a retrograde step in terms of transparency and also the fact that there is now one single system, and therefore potentially one single point of failure (albeit that the different payment streams have different “rails”). But the single entity is now in operation and work is underway on the New Payments Architecture, so it is probably still too early to point to major customer benefits and a reduction in the barriers to access (per the Payment Strategy Forum report) has been achieved.

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<sup>307</sup> 29 August 2018 Article relating to the then state of play in terms of Confirmation of Payee to help prevent transfer frauds: <https://www.finextra.com/blogposting/15720/the-uks-new-payment-system-operator-makes-a-world-class-cop-out-on-confirmation-of-payee>.

<sup>308</sup> Comment piece by Lyddon Consulting Services (undated) about UK New Payments System Operator – the wrong direction and we need a new one <http://www.lyddonconsulting.com/uk-new-payment-system-operator-the-wrong-direction-and-we-need-a-new-one/>.



## Schedule 6 Global payments providers

### 1 Visa

Visa is a global payment systems provider and payment card administrator that is publicly listed on the New York Stock Exchange.

Visa operates in more than 200 countries, enabling consumers, businesses, banks and governments to use electronic payments rather than cash and cheques. Visa does not directly issue prepaid, debit and credit cards to consumers and businesses, but helps financial institutions deliver these payment products.

During financial year 2019, Visa processed US\$138.3 billion worth of transactions.<sup>309</sup> Visa's net revenue for the 2019 financial year was approximately US\$23 billion, and its net profit was US\$12.4 billion.<sup>310</sup>

Visa has Australian offices in both Sydney and Melbourne and employs approximately 19,500 people globally.

#### 1.1 Visa's services

##### (a) VisaNet

Visa's global processing network, VisaNet, provides secure and reliable payments around the world, and is capable of handling more than 65,000 transaction messages a second. VisaNet provides transaction clearing and settlement – to financial institutions and merchant clients processing services – primarily authorization. This allows Visa to facilitate secure, reliable and convenient transactions between financial institutions, merchants and account holders globally.<sup>311</sup>

##### (b) Credit and Debit Cards

Visa does not extend credit to account holders, but provides card benefits, including technology, authorization, fraud tools and brand support that issuers use to enable their credit products.

Debit cards and digital credentials are issued by financial institutions to allow consumers and small businesses to purchase goods and services using funds held in their bank accounts. Debit cards enable account holders to transact—in person, online or via mobile—without needing cash or checks and without accessing a line of credit. Visa provides a strong brand, the network infrastructure (which includes processing, acceptance, product features and support, risk tools and services) and industry expertise to help issuers optimize their debit offerings.<sup>312</sup>

<sup>309</sup> Please see Visa 2019 Annual Report, page 2 – annexed as **Annexure 49**.

<sup>310</sup> Please see Visa 2019 Annual Report, page 2 – annexed as **Annexure 49**.

<sup>311</sup> Please see Visa 2019 Annual Report, page 4 – annexed as **Annexure 49**.

<sup>312</sup> Please see Visa 2019 Annual Report, page 8 – annexed as **Annexure 49**.

(c) **Pre-paid products**

Visa also offers prepaid products, which draw from a designated balance funded by individuals, businesses or governments, to address a variety of use cases and needs, including general purpose reloadable, payroll, government and corporate disbursements, healthcare, gift and travel.

(d) **Contactless payments**

Visa also facilitates contactless payments – where a consumer taps to pay at checkout with a contactless card or mobile phone – on its network.

In 2019, excluding the United States, tap to pay had surpassed 50% of face-to-face transactions that ran over the Visa network. There are now more than 50 countries where tapping to pay represents at least a third of all domestic face-to-face transactions processed on Visa's network, up from 35 countries at the end of last financial year. In Australia, Visa has quoted that contactless payments make up over 95% of their face-to-face payments in this market.

(e) **Business Solutions**

Visa also offers business payment solutions, including small business, corporate (travel) cards, purchasing cards, virtual cards/digital credentials, non-card cross-border B2B payment options and disbursement accounts, covering most major industry segments around the world.

In 2019, Visa commercially launched Visa B2B Connect, a multilateral network that operates separately from VisaNet and facilitates B2B cross-border transactions directly from an originating bank to the recipient bank. This network gives financial institutions the ability to quickly and securely process high-value corporate cross-border payments globally. Visa B2B Connect's current reach includes more than 60 countries with the goal to expand to more than 100 countries in 2020.

In Australia, Visa also offers an ePayments Gateway service (for online merchants) and a fraud monitoring service under its Cybersource division.

(f) **Visa Direct and Earthport**

Over the last several years, Visa has invested in expanding beyond C2B payments to capture growth in new payment flows such as P2P, B2C, B2B and G2P payments.

Visa Direct, Visa's real-time push payments service, reverses the traditional card payment flow by allowing payment originators, through their acquirer, to push funds directly to cards. Visa Direct helps enable domestic and cross-border payouts for consumers and small businesses in more than 170 countries. Visa Direct powers seven of the major P2P platforms in the United States. In 2019, Visa Direct transactions were sent from 90 countries to the more than 170 countries where Visa Direct is currently available.

In July 2019, Visa acquired Earthport, which provides cross-border payment services to banks, money transfer service providers and businesses via one of the world's largest independent ACH networks. Through a combination of the existing Visa network and the addition of the Earthport network, Visa clients will soon be able to push payments to

the majority of the world's banked population, reaching more than 99% of bank accounts in 88 countries, including the top 50 markets.<sup>313</sup>

(g) **Acquisition of Plaid**

In January 2020, Visa announced its agreement to acquire Plaid, a company that operates and creates the digital infrastructure that allows people to connect financial data from their bank accounts to apps they use to manage their money, such as Venmo, Coinbase and Expensify.

On November 5, 2020, the Department of Justice Antitrust Division filed a complaint in the US District Court for the Northern District of California to block Visa Inc.'s \$5.3 billion acquisition of Plaid Inc. based on a 'nascent competitive threat' theory of harm. The complaint alleges that Visa is a monopolist in the US market for 'online debit transactions' and that Plaid is poised to enter that market, posing a significant threat to Visa's monopoly. While Plaid doesn't currently compete directly with Visa, the Department of Justice alleges that Plaid had developed plans for a new debit service that would allow consumers to make online purchases "with money debited from their bank accounts." It has been reported in the media that Visa no longer intends to acquire Plaid.

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## 2 Mastercard

Mastercard is a technology company in the global payments industry and is publicly listed company on the New York Stock Exchange. Mastercard connects consumers, financial institutions, merchants, governments, digital partners, businesses and other organizations worldwide, enabling them to use electronic forms of payment instead of cash and cheques.

Mastercard generates revenue from assessing customers based on the gross dollar volume of activity on the products that carry the Mastercard brands, from the fees it charges to its customers for providing transaction switching and from other payment-related products and services. During financial year 2019, Mastercard saw 87.3 billion switched transactions through its network.<sup>314</sup> Mastercard's net revenue for the 2019 financial year was approximately US\$16.9 billion, and its net profit was US\$8.1 billion.<sup>315</sup>

Mastercard has Australian offices in both Sydney and Melbourne, and as of 31 December 2019, employed 18,600 people globally.

### 2.1 Mastercard's services

(a) **Mastercard Core Network**

Through its own proprietary global payments network (Core Network), Mastercard authorises, clears and settles payments and delivers ACH transactions (both batch and real-time account-based payments). Mastercard's Core Network enables payments in more than 150 currencies and in more than 210 countries and territories around the world.

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<sup>313</sup> Please see Visa 2019 Annual Report, page 8 – annexed as **Annexure 50**.

<sup>314</sup> Please see Visa 2019 Annual Report, page 2 – annexed as **Annexure 50**.

<sup>315</sup> Please see Mastercard 2019 Annual Report, page 6 – annexed as **Annexure 50**.

Mastercard also offers integrated value-added services such as cyber and intelligence products, information and analytics services, consulting, loyalty and reward programs and processing.

A typical transaction on the Mastercard Core Network involves 4 participants in addition to Mastercard:

- (i) the account holder – the person or entity who holds a card or uses another device enabled for payment;
- (ii) the issuer – the account holder’s financial institution;
- (iii) the merchant – who receives the payment from the account holder; and
- (iv) the acquirer – the merchant’s financial institution.

In a typical transaction, an account holder purchases goods or services from a merchant using a Mastercard payment product. After the transaction is authorized by the issuer, the issuer pays the acquirer an amount equal to the value of the transaction, minus the interchange fee, and then posts the transaction to the account holder’s account. The acquirer pays the amount of the purchase, net of a discount (referred to as the ‘merchant discount’ rate or Merchant Service Fee), to the merchant.<sup>316</sup>

(b) **Consumer Credit, Debit and Prepaid**

Mastercard offers a number of programs that enable issuers to provide consumers with credit that allow them to defer payment.

Mastercard also offers a range of debit payment products and solutions that allow its customers to provide consumers with access to funds in deposit and other accounts. Mastercard’s debit and deposit access programs can be used to make purchases and to obtain cash in bank branches, at ATMs and, in some cases, at POS. Its branded debit programs consist of Mastercard (including standard, premium and affluent offerings), Maestro (the only PIN-based solution that operates globally) and Cirrus (our primary global cash access solution).

(c) **Account services**

Mastercard also provides prepaid account services, which allow consumers to pay in advance without a bank account or a credit history. These can be tailored to meet specific program, consumer or customer needs.

Mastercard does not issue cards, extend credit, determine or receive revenue from interest rates or other fees charged to account holders by issuers, or establish the rates charged by acquirers in connection with merchants’ acceptance of its products. In most cases, account holder relationships belong to, and are managed by, Mastercard’s financial institution customers.

(d) **PayPass (contactless)**

Mastercard also facilitates contactless payments for both debit and credit cards through its PayPass feature. Following consumer market research conducted in Australia during 2005, this feature was first piloted in areas

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<sup>316</sup> Please see Mastercard 2019 Annual Report, page 8 – annexed as **Annexure 50**.

around Sydney by Commonwealth Bank of Australia in 2006, before being rolled out by Commonwealth Bank of Australia and other banks across the nation.

(e) **Real-time A2A payments and infrastructure**

In 2016, Mastercard acquired Vocalink. At the time, Vocalink operated the BACS Automated Clearing House in the UK as well as the UK Faster Payments real time account-to account payment service as well as licensing this software in a number of countries such as Sweden, Singapore, Thailand and the USA.<sup>317</sup> It has recently been selected to provide similar services, in Peru and Saudi Arabia, and faster payment services in Canada.<sup>318</sup>

In 2020, Mastercard acquired the account-to-account payments business of NETS, which provides bill payment and real-time payment processing services in the Nordic region and which was recently selected to provide real-time payments processing to the P27 payments initiative for Denmark, Sweden, Norway and Finland.<sup>319</sup>

(f) **Partnerships**

Mastercard have also announced partnerships with a range of companies such as Splitit, Latitude Financial, Flexigroup and Laybuy to offer their buy now pay later services at locations where Mastercard is accepted.

(g) **Additional Platforms for New Payment Flows**

In addition to the Core Network, Mastercard offers several platforms that cater to new payment flows:

- (i) Mastercard Track, which aims to improve the way businesses pay and get paid by providing a single connection enabling access to multiple payment types, greater control and richer data to optimize B2B transactions for both buyers and suppliers;
- (ii) Mastercard Bill Pay Exchange – a platform that makes it easier for consumers to view, manage and pay their bills either with cards or real-time and batch ACH payments from their bank accounts; and
- (iii) a platform that enables consumers, businesses, governments and merchants to send and receive money beyond borders with greater speed and ease.

(h) **Processing**

Mastercard also offer processing capabilities in the payments value chain by offering services that include:

- (i) issuer solutions designed to provide customers with a complete processing solution to help them create differentiated products

<sup>317</sup> Please see <https://newsroom.mastercard.com/press-releases/mastercard-announces-acquisition-of-vocalink/>.

<sup>318</sup> Please see <https://www.payments.ca/about-us/news/payments-canada-selects-mastercard%E2%80%99s-vocalink-clearing-and-settlement-solution>.

<sup>319</sup> Please see <https://www.fintechfutures.com/2019/06/mastercard-and-p27-to-launch-nordic-real-time-payments-system/>.

and services and allow quick deployment of payments portfolios across banking channels;

- (ii) payment gateways that offer a single interface to provide e-commerce merchants with the ability to process secure online and in-app payments and offer value-added solutions, including outsourced electronic payments, fraud prevention and alternative payment options; in Australia, the ePayment Gateway service for online merchants is sold under the MPGS division (Mastercard Payment Gateway Services); and
- (iii) Mobile gateways that facilitate transaction routing and processing for mobile-initiated transactions.

(i) **Cyber and Intelligence**

Mastercard has integrated products and services to prevent, detect and respond to fraud and cyber-attacks and to ensure the safety of transactions made using Mastercard products.

These services operate at multiple layers:

- (i) the 'Prevent' layer – protects infrastructure, devices and data from attacks, which includes growing the usage of EMV chip and contactless security technology;
- (ii) the 'Identify' layer – helps banks and merchants verify the authenticity of consumers during the payment process using various biometric technologies;
- (iii) the "Detect" layer spots fraudulent behaviour and cyber-attacks and takes action to stop these activities once detected; and
- (iv) the "Experience" layer improves the security experience from the speed of transactions, enhancing approvals for online and card-on-file payments, to the ability to differentiate legitimate consumers from fraudulent ones.

(j) **Loyalty and Rewards**

Mastercard offers a scalable rewards platform that enables financial institutions to provide consumers with a variety of benefits and services, such as personalized offers and rewards, access to a global airline lounge network, concierge services, insurance services, emergency card replacement, emergency cash advances and a 24-hour account holder service centre.

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### 3 American Express

American Express is a subsidiary of American Express Company, a global credit card and payment system provider, which is publicly listed on the NASDAQ.

American Express' net revenue for the 2019 financial year was By the end of 2019, American Express employed approximately 64,500 people globally.<sup>320</sup> Its Australian operations are based in Sydney.

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<sup>320</sup> Please see American Express 2019 Annual Report, page 1 – annexed as **Annexure 51**.

### 3.1 American Express' payments services

American Express operates a 3-party credit card payment scheme. Unlike the schemes operated by Visa and Mastercard, in a 3-party scheme, the company takes the role of both issuer and acquirer.

As a result, American Express has direct relationships with both the card members (as a card issuer) and merchants (as an approximately US\$43.6 billion, and its net income was US\$6.8 billion.<sup>321</sup>

No interchange fees are involved in this type of scheme and American Express is therefore not covered under the RBA's interchange framework and is not a designated scheme. As a result, the company determines a merchant service fee to cover the cost of transaction processing and contracts directly with each merchant. However, American Express companion cards, which used to be issued by the Major Australian Banks were subject to the RBA's interchange standards; these cards are no longer on issue.

Following credit card payment reforms enacted in July 2017, the major banks reviewed their credit card rewards programs and discontinued their American Express companion cards. In January 2018, the company launched a cobranded card with WBC, which is directly issued by American Express, in response to the RBA's changes to card payment regulation; this card has recently also been taken off issue.

#### (a) Card Issuing Businesses

American Express offers a broad set of its own branded card products, rewards and services to consumers, through its Global Consumer Services Group, and commercial customers, through its Global Commercial Services Group, around the world. American Express offers credit cards and provides credit for the cardholder, in addition to operating the scheme network.

American Express also offers contactless payments with its card products. The rising popularity of buy now pay later services also prompted the company to launch Plan It in July 2020, which allows customers to make repayments in instalments.<sup>322</sup>

In Australia, American Express has a dominant share in the Commercial Card (Government, Corporate, Business) market, with similar products of Visa/Mastercard offered by financial institutions being much later market entrants.

For the year ended 31 December 2019, spending on American Express cards issued by American Express was US\$1,071 billion with 70 million proprietary cards-in-force worldwide.

#### (b) Merchant Acquiring Business

Another segment of American Express, Global Merchant and Network Services, builds and manages relationships with millions of merchants around the world that choose to accept American Express cards. This includes signing new merchants to accept American Express cards, agreeing on the discount rate (a fee charged to the merchant for accepting American Express cards) and handling servicing for merchants.

<sup>321</sup> Please see American Express 2019 Annual Report, pages 36 – 38 – annexed as **Annexure 51**.

<sup>322</sup> Please see <https://www.americanexpress.com/au/credit-cards/membership-benefits/plan-it/>.

In Australia, merchants are normally able to accept American Express card payments through the same terminal that their merchant acquirer provides for Visa/Mastercard payments, and often the merchant acquirer institution will facilitate the contractual arrangements with American Express.

As of 2019, American Express believes they have virtual parity coverage with Mastercard and Visa credit card-accepting merchants in the United States and are growing merchant coverage around the world.<sup>323</sup> Due to the differential in Merchant Service Fees between Visa/Mastercard and American Express in Australia, their merchant coverage in this market is less and their card payments tend to see a greater incidence of surcharging.

(c) **Card Network Business**

The Global Merchant and Network Services segment also operates the payments network, through which American Express establishes and maintains relationships with 3rd party banks and financial institutions across 94 countries, licencing the American Express brand, and extending the reach of the global network.

This includes both independent operator arrangements and network card license arrangements. An independent operator arrangement is where partners are licensed to issue local currency American Express-branded cards in their countries and serve as the merchant acquirer for local merchants. A network card licence arrangement is where partners are licensed to issue American Express-branded cards on the American Express network.

The American Express companion cards previously issued by the Major Australian Banks came under the GNS division.

For the year ended 31 December 2019, worldwide network services billed business (spending on American Express cards issued by 3<sup>rd</sup> parties) was US\$170 billion with 44 million cards-in-force issued by 3<sup>rd</sup> parties worldwide.<sup>324</sup>

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## 4 PayPal

PayPal offers payments services in Australia on behalf of its parent, PayPal Holdings, Inc., a publicly listed company on the New York Stock Exchange.

PayPal's payment solutions enable customers to send and receive payments on its global, 2-sided network that helps merchants and consumers connect, transact, and complete payments, online, on a mobile device, in an app, or in person.

PayPal has been operating in Australia since 2005 and now has over 7 million active customer accounts (and 35 million active account holders globally). PayPal is available in more than 200 markets around the world, enables consumers 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.<sup>325</sup>

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<sup>323</sup> Please see American Express 2019 Annual Report, page 2 – annexed as **Annexure 51**.

<sup>324</sup> Please see American Express 2019 Annual Report, page 2 – annexed as **Annexure 51**.

<sup>325</sup> Please see <https://www.paypal.com/us/webapps/mpp/about>.



In 2019, PayPal processed US\$712 billion worth of payments across 12.4 billion payment transactions.<sup>326</sup>

#### 4.1 PayPal's payments services

PayPal, PayPal Credit, Braintree, Venmo, Xoom, and iZettle products and services, comprise PayPal's proprietary payments platform.

PayPal's payments platform uses a combination of proprietary and 3<sup>rd</sup> party technologies and services intended to efficiently and securely facilitate transactions between millions of merchants and consumers worldwide across different channels, markets, and networks. The platform connects with financial service providers around the world and allows consumers to make purchases using a wide range of payment methods, regardless of where a merchant is located.

PayPal's platform is 2-sided, meaning that it serves merchants and consumers.

##### (a) Merchant Services

PayPal's services help merchants to grow and expand their businesses by providing global reach and powering all aspects of digital checkout.

PayPal offers alternative payment methods, including access to credit solutions, provide fraud prevention and risk management solutions, reducing losses through proprietary protection programs, and offer tools and insights for leveraging data analytics to attract new customers and improve sales conversion.

The PayPal platform is technology and platform agnostic, meaning it is intended to enable digital checkout online, on mobile, and in-store (at POS) across all platforms and devices – for merchants of all sizes to receive payments from their customers. Merchants can onboard quickly onto PayPal's platform and are generally not required to invest in new or specialised hardware.

PayPal's Braintree products allow merchants to receive a variety of mobile and digital payments, with a single Braintree integration allowing a merchant to accept payments with credit or debit cards, PayPal, PayPal Credit, Google Pay, Apple Pay, Samsung Pay, and other payment solutions.

In 2019, PayPal launched PayPal for Marketplaces, a global, end-to-end solution designed to satisfy the unique payment needs of platforms, marketplaces, and crowdfunding sites, which provides payment solutions for accepting and disbursing funds between consumers and businesses.

PayPal also offers gateway services which provide the payment gateway technology that links a merchant's website to its processing network and enable merchants to accept payments online with credit or debit cards.

##### (b) Consumer Services

PayPal provides consumers with a digital wallet which enables them to send payments to merchants more safely using a variety of funding sources, which may include a bank account, a PayPal account balance, a Venmo account balance (for US-based consumers), a PayPal Credit

<sup>326</sup> Please see PayPal 2019 Annual Report, page 2 - annexed as **Annexure 52**.

account, a credit or debit card, or other stored value products such as coupons, gift cards, and eligible credit card rewards.

PayPal also offers consumers P2P payment solutions through its PayPal, Venmo (for US-based consumers) and Xoom products. PayPal enables both domestic and international P2P transfers across the PayPal Platform. The Venmo app in the US is a leading mobile application used to move money between our customers and to make purchases at approved merchants. Xoom is an international money transfer service that enables our customers to send money and prepaid mobile phone reloads to, and pay bills for, people around the world in a secure, fast, and cost-effective way.

The PayPal Credit product, currently available in the US, offers consumers a line of credit that can be used in individual transactions at checkout. Once a consumer is approved for credit, PayPal Credit is made available as a funding source for that account holder. PayPal Credit is not currently available in Australia, but Citi Australia and PayPal announced a partnership in 2019 that will aim to develop PayPal's consumer credit products in Australia.<sup>327</sup>

In Australia, very few consumers keep funds in their Paypal account, unlike in the USA. Australians tend to link their international scheme debit or credit card or their local bank account to their Paypal account, such that when they make a transaction at a merchant using Paypal it is immediately backed by an identical transaction against their linked payment credentials.

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## 5 Apple

Apple Inc. is a global technology company, publicly listed on the NASDAQ, that designs, manufactures and markets smartphones, personal computers, tablets, wearables and accessories, and sells a variety of related services.

Apple offers payment services in Australia with Apple Pay, a cashless payment service. Apple also offers the Apple Card, a co-branded credit card available only in the US.

For the year ended 26 September 2020, Apple recorded a total net sales of approximately US\$274 billion and a net income of approximately US\$57.4 billion.

Apple is headquartered in the US in Cupertino, California, and employs approximately 147,000 people globally. Apple has an Australian office in Sydney, New South Wales.

### 5.1 Apple's payment services in Australia

Apple Pay is a digital wallet that can be used to make contactless, secure purchases in stores, within selected apps and on participating websites. Apple Pay is only available on Apple devices, which use the NFC chip or the app to make payments using tokenised versions of a user's debit or credit card. The Apple iPhone is configured such that the only payment system with access to the NFC interface is Apple Pay.

Apple Pay works with many of the major credit, debit and prepaid cards from the top banks and card issuers, including Visa, Mastercard, American Express and eftpos. Apple Pay also allows for a user to store boarding passes, tickets and

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<sup>327</sup> Please see <https://www.citibank.com/australia/news/2019/Citi-Australia-and-PayPal-Australia-sign.pdf>.

rewards cards, in addition to debit and credit cards from selected financial institutions.<sup>328</sup>

Apple Pay also supports selected dual-network debit cards. When a user adds an eligible dual-network debit card to Apple Pay, two versions of the card can be stored: eftpos and Visa/Mastercard. On installation, Visa/Mastercard is the default payment network that processes the transaction from the user's debit account, but the user may change the default payment network to eftpos Cheque or eftpos Savings in the settings. Prior to undertaking a contactless transaction in store with Apple Pay, the user may select from any of the payment cards that have been stored in the wallet; if no active selection is made, then the default card will be used. For transactions made within apps, online or overseas, Apple Pay automatically defaults to Visa/Mastercard, as these types of payments are not supported by eftpos.<sup>329</sup>

When a user makes a purchase with Apple Pay, it uses a device-specific number and a unique transaction code. This means that the card number is never stored on the user's device or on Apple's servers and is not shared with the merchant.

Apple levies a processing fee on the issuer of the payment card used in an Apple Pay transaction.

As of March 2020, Apple Pay was used by 5.9% of Australians, up from 4% in 2019.<sup>330</sup> Approximately 50% of Australians use an Apple device that is capable of processing Apple Pay payments.<sup>331</sup>

Apple's impact (with reference in particular to its acquisition history and recent acquisition of Mobeewave) on the Australian payments landscape has been significant. This couples with it filing patents for digital ID and QR Codes and extension into the BNPL sector following agreements with AfterPay, Zip and Klarna, has resulted in Apple have a greater and greater influence in the domestic market.

This presence is further strengthened given the uptake of Apple devices by Australian consumers, high NFC uptake (making Australia an attractive for entry point for payments acceptance) and growing adoption of contactless and mobile payments.

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## 6 Google

Google LLC is a wholly owned subsidiary of Alphabet Inc., a public company headquartered in Mountain View, California, and listed on the NASDAQ stock exchange.

Google is active in a wide range of areas, including online search services (Google Search) and other online services such as YouTube, Google Maps and Gmail, payments as well as cloud computing services.

Google has a number of products designed for consumers, businesses and developers.

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<sup>328</sup> A full list of supported and unsupported cards on Apple Pay broken down by bank is available here: <https://support.apple.com/en-au/HT206638>.

<sup>329</sup> Please see <https://support.apple.com/en-us/HT209137>.

<sup>330</sup> Please see <http://www.roymorgan.com/findings/8308-digital-payment-solutions-december-2019-202003100329>.

<sup>331</sup> Please see <https://www.statista.com/statistics/861532/australia-mobile-os-share/>.

Google started in Australia in 2002 and currently employs over 1,500 people in Sydney and Melbourne, including more than 700 software engineers in Australia working on products like Google Pay, Google Maps, Chrome and Photos.

For the 2019 financial year, Google recorded a total revenue of US\$160.74 billion. Google is headquartered at Googleplex located at 1600 Amphitheatre Parkway in Mountain View, California, United States.

## 6.1 Google's payment services in Australia

- (a) Google Pay is a fast way to pay globally, online and in stores.
- (b) When paying in shops, Google Pay doesn't share the actual card number so this information is secure. Google Pay also enables users to adopt personalise protection to secure their information.
- (c) With Google Pay, consumers can check out online and in apps without having to enter any payment information.
- (d) Google has recently announced a sweeping number of changes to Google Pay that will convert the simple payments tool into a full-blown financial management service.<sup>332</sup>

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## 7 Facebook

Facebook, Inc. is a global social media and technology company, publicly listed on the Nasdaq Global Select Market, that owns and operates several products, including Facebook, Instagram, Messenger, WhatsApp and Oculus.

Facebook is currently in the process of rolling out a payment product, Facebook Pay, in Australia – which will allow users to make purchases, send money or donate on Facebook and, in the future, on Instagram, Messenger and WhatsApp. Facebook is also in the process of developing Diem (formerly known as Libra), a digital payments system powered by blockchain technology, and Calibra, a digital wallet for Libra which Facebook expects to launch in Messenger, WhatsApp, and as a standalone application.

For the year ended 31 December 2019, Facebook recorded a total revenue of approximately US\$70.7 billion and a net income of approximately US\$18.5 billion.<sup>333</sup>

Facebook is headquartered in the US in Menlo Park, California, and employs approximately 45,000 people globally. Facebook has an Australian office in Sydney, New South Wales.

### 7.1 Facebook's payment services in Australia

Facebook Pay allows users to make purchases, send money or donate within Facebook's apps. Using Facebook Pay, users are able to: make P2P payments; purchase games and in-app upgrades; make donations to charities or personal fundraisers; buy and sell items on Facebook Marketplace and in groups; buy

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<sup>332</sup> Please see <https://www.usatoday.com/story/tech/2020/11/18/google-pay-looks-take-apple-pay-being-more-like-venmo/3764826001/>; please see also [https://www.finextra.com/newsarticle/36975/google-pay-gets-major-overhaul?utm\\_medium=newsflash&utm\\_source=2020-11-18&member=114581](https://www.finextra.com/newsarticle/36975/google-pay-gets-major-overhaul?utm_medium=newsflash&utm_source=2020-11-18&member=114581); please see also <https://blog.google/products/google-pay/reimagined-pay-save-manage-expenses-and-more/>.

<sup>333</sup> Please see Facebook 2019 Annual Report, page 42 – annexed as **Annexure 53**.

advanced tickets for events; or promote their event, product or company through Facebook Ads.<sup>334</sup>

Facebook Pay is built around the consumer experience and runs on existing payments infrastructure, utilising the user's credit card, debit card or PayPal account to make or receive a payment.<sup>335</sup> Payments are processed in partnership with companies like PayPal, Stripe and others around the world.

Facebook Pay is being rolled out in Australia on the Facebook platform only, with the intention of bringing Facebook Pay to its other apps over time.<sup>336</sup> This means Facebook Pay in Australia will be limited to facilitating payments for shopping on Marketplace, donating to Facebook Fundraisers, and purchasing games, tickets or premium content on Facebook Watch.<sup>337</sup>

In 2017, Facebook was granted a patent in Australia that would allow P2P payments through Messenger, which is yet to be implemented.<sup>338</sup> To date, only users in the US have Facebook Pay enabled across Facebook's full suite of apps and the ability to make P2P payments.<sup>339</sup>

In June 2019, Facebook announced its Diem Project and its participation in the Diem Association, an independent membership organisation which is focussed on creating a global payments system based the Diem cryptocurrency and blockchain technology.

In April 2020, the Diem Association published a new version of its White Paper, which changed the scope of the Diem Project after significant scrutiny from regulators around the world and many of the original member organisations leaving the Project.<sup>340</sup>

The new version of the Diem Project focusses on creating a payments network that uses Diem Coins and several stablecoins,<sup>341</sup> each of which are backed by a single fiat currency (like the US Dollar, the Euro, the British Pound and the Singapore Dollar). The Diem Coin is a digital composite of the other single-currency stablecoins rather than a separate digital asset.<sup>342</sup>

The goal is for Diem Coin to be used in payments as a cross-border settlement coin as well as a neutral, low-volatility option for people and businesses in countries that do not have a single-currency stablecoin on the Diem network.<sup>343</sup>

The Diem Project is supposed to operate independently from Facebook and is essentially made up of 3 parts:

- (a) a secure, scalable, and reliable blockchain as the technological backbone of the payment system;

<sup>334</sup> Please see [https://www.facebook.com/help/1434403039959381/?helpref=hc\\_fnav&rdrhc](https://www.facebook.com/help/1434403039959381/?helpref=hc_fnav&rdrhc).

<sup>335</sup> Please see <https://about.fb.com/news/2019/11/simplifying-payments-with-facebook-pay/> and [https://www.facebook.com/help/1420531398104915?helpref=popular\\_topics](https://www.facebook.com/help/1420531398104915?helpref=popular_topics).

<sup>336</sup> Please see <https://pay.facebook.com/au/> and <https://pay.facebook.com/au/availability/#asia-pacific>.

<sup>337</sup> Please see <https://pay.facebook.com/au/ways-to-pay/#messenger>.

<sup>338</sup> Please see Max Mason and James Eyers, The Australian Financial Review 'Facebook wins Australian patent for Messenger payments', 2 July 2017 – annexed as **Annexure 28**.

<sup>339</sup> Please see [https://www.facebook.com/help/919479321397007?helpref=about\\_content&rdrhc](https://www.facebook.com/help/919479321397007?helpref=about_content&rdrhc) and <https://pay.facebook.com/au/availability/#asia-pacific>.

<sup>340</sup> Please see Libra Whitepaper v2.0, April 2020 – annexed as **Annexure 54**.

<sup>341</sup> A type of cryptocurrency that is backed by a reserve asset.

<sup>342</sup> Please see Libra Whitepaper v2.0, April 2020 – annexed as **Annexure 54**.

<sup>343</sup> Please see Libra Whitepaper v2.0, April 2020 – annexed as **Annexure 54**.

- (b) Diem Coins that are backed by the Diem Reserve of assets made up of cash or cash equivalents and very short-term government securities; and
- (c) governance by the independent Diem Association and its subsidiary Diem Networks, tasked with developing and operating the payment system.

Facebook also has plans to integrate with the Diem payments network when it becomes available through Novi Financial, a subsidiary of Facebook. Novi's first product will be a digital cryptocurrency wallet designed to help people send and hold money, including Diem digital currencies, through the Novi wallet which will integrate directly with WhatsApp and Messenger.<sup>344</sup> This will enable Facebook's 2.6 billion monthly active users to access a new type of payments infrastructure to transact with.<sup>345</sup>

## 8 Ant Group (Alipay)

Alipay is a third-party mobile and online payment platform, established in Hangzhou, China in February 2004 by Alibaba Group and its founder Jack Ma. In 2015, Alipay moved its headquarters to Pudong, Shanghai, although its parent company Ant Financial remains Hangzhou-based. Ant Group serves approximately 1.3 billion annual active users and is separated into two distinct groups: Digital Payment Services and Digital Financial Services (including, wealth management, micro-financing and insurance).<sup>346</sup>

Alipay provides digital payment services through the Alipay app, facilitating both online and offline transactions. The app allows foreign credit card holders to utilise mobile payments while in China by providing a one-stop payment solution.<sup>347</sup> In addition, Alipay allows for cross-border use cases through its local overseas partners, such as through the Apple's iTunes Store in Korea, the Philippines and Thailand.<sup>348</sup>

In 2018, CBA became the first major bank in Australia to provide Alipay to customers instore through the CBA Albert terminal.<sup>349</sup> The Albert terminal uses a QR Code system to interact with the customer's Alipay account and process transactions. The user scans a QR Code on the other's device, enters the required amount and completes the transaction through their app.<sup>350</sup> The Alipay app also informs customers of promotions and has the ability to target customers through the Alipay store. The Albert terminal allows Australian businesses to engage with over 1.3 million Chinese tourists and nationals that currently use Alipay.<sup>351</sup>

<sup>344</sup> Please see <https://about.fb.com/news/2020/05/welcome-to-novi/>.

<sup>345</sup> Please see [https://www.finextra.com/newsarticle/37037/ecb-warns-the-future-of-money-is-at-stake-as-facebook-preps-january-crypto-launch?utm\\_medium=dailynewsletter&utm\\_source=2020-11-30&member=114581](https://www.finextra.com/newsarticle/37037/ecb-warns-the-future-of-money-is-at-stake-as-facebook-preps-january-crypto-launch?utm_medium=dailynewsletter&utm_source=2020-11-30&member=114581).

<sup>346</sup> Please see Alibaba Group 2020 Annual Report, page 59 – annexed as **Annexure 56**.

<sup>347</sup> Please see Alibaba Group 2020 Annual Report, page 60 – annexed as **Annexure 56**.

<sup>348</sup> Please see Alibaba Group 2020 Annual Report, page 60 – annexed as **Annexure 56**.

<sup>349</sup> Please see <https://www.commbank.com.au/guidance/newsroom/cba-leads-major-banks-with-launch-of-alipay-201812.html#:~:text=Alipay%20will%20be%20available%20for,Albert%20devices%20currently%20across%20Australia>.

<sup>350</sup> Please see <https://www.commbank.com.au/guidance/newsroom/cba-leads-major-banks-with-launch-of-alipay-201812.html#:~:text=Alipay%20will%20be%20available%20for,Albert%20devices%20currently%20across%20Australia>.

<sup>351</sup> Please see <https://www.commbank.com.au/business/merchant-services/eftpos-terminals/albert/alipay.html#disclaimer>.

## 9 Tencent (WeChat Pay)

WeChat is a Chinese multi-purpose messaging, social media and mobile payment app developed by Tencent. It was first released in 2011 and became the world's largest standalone mobile app in 2018, with over 1 billion monthly active users. WeChat Pay operates by bundling users Weixin Pay accounts with their bank cards to allow users to complete both online and offline transactions.<sup>352</sup> WeChat's goal is to create a global open ecosystem for the financial sector that provides a range of financial services including mobile payments, wealth management, loans and securities trading to users.<sup>353</sup>

The WeChat app offers a variety of products, such as quick pay, in-app payment and website payment.<sup>354</sup> Additionally, the app leverages the QQ Wallet mobile payment product to provide users with a variety of payment methods, including bank account payments, QR Code payments and near-field communication.<sup>355</sup> Tencent has also begun to explore blockchain-based payment products and most recently began offering blockchain e-receipts for merchants.<sup>356</sup>

In Australia, WeChat pay operates through partnerships with local licensed financial institutions, such as Omnipay.<sup>357</sup> These institutions become overseas WeChat Pay Service Providers and offer merchants with acquiring services that allow them to receive payments via WeChat Pay.<sup>358</sup> Providers are authorised by WeChat to assist merchants with access to the WeChat ecosystem. WeChat has approximately 23 partners in Australia.<sup>359</sup>

## 10 Buy Now Pay Later

### 10.1 Afterpay

Afterpay is an ASX-listed BNPL company established in 2014. Afterpay directly pays retailers the transaction amount and subsequently deducts fortnightly payments of 25% from customers on file cards over the card rails. These individual transactions operate as payments between Afterpay and the customer rather than a payment between the retailer and customer.

Currently, Afterpay holds an Australian credit licence but does not provide any products regulated under the National Credit Act as it does not charge consumers for obtaining credit.<sup>360</sup> Afterpay provides consumers with loans of up to \$2,000 with fortnightly repayments occurring over a period of 8 weeks. Consumers are only charged fees for late payments and merchants are charged a fee per transaction.<sup>361</sup> Afterpay operates in New Zealand, the United States and the United Kingdom. Notably, Tencent Holdings has become a recent

<sup>352</sup> Please see <https://www.tencent.com/en-us/business.html>.

<sup>353</sup> Please see <https://www.tencent.com/en-us/business.html>.

<sup>354</sup> Please see <https://www.tencent.com/en-us/business.html>.

<sup>355</sup> Please see <https://www.tencent.com/en-us/business.html>.

<sup>356</sup> Please see <https://www.tencent.com/en-us/business.html>.

<sup>357</sup> Please see <https://www.omipay.net/AU/paymentMethods/weixin.html>.

<sup>358</sup> Please see <https://www.omipay.net/AU/paymentMethods/weixin.html>.

<sup>359</sup> Please see [https://pay.weixin.qq.com/index.php/xphp/v/coversea\\_partner\\_search/view\\_partner\\_search/result](https://pay.weixin.qq.com/index.php/xphp/v/coversea_partner_search/view_partner_search/result).

<sup>360</sup> Please see ASIC, Review of buy now pay later arrangements, page 7 – annexed as **Annexure 57**.

<sup>361</sup> Please see ASIC, Review of buy now pay later arrangements, page 8 – annexed as **Annexure 57**.

substantial shareholder in Afterpay by acquiring a five percent equity stake in the company.<sup>362</sup>

## 10.2 ZipCo

ZipCo (previously known as Zip Money) is an ASX-listed BNPL company established in 2013. ZipCo operates in Australia, New Zealand and the United Kingdom and has recently acquired the United States-based BNPL company, QuadPay.<sup>363</sup> ZipCo offers a range of financial products, including:

- (a) Zip Pay, an interest free line of credit of up to \$1,500 for everyday online shopping;
- (b) Zip Money, a line of credit of up to \$3,000 for regular consumers and of up to \$50,000 for specific merchants that is interest free for the first free months after which it incurs an interest rate of 19.9% p.a.;
- (c) Zip Business, an interest-free line of credit for SME's;
- (d) Zip App, a digital wallet allowing users access to deals and offers from the Zip merchant network; and
- (e) Pocketbook, a free personal finance app which is designed to assist users in budgeting and saving.<sup>364</sup>

Additionally, ZipCo facilitates both online and offline payments and can be used to pay bills via BPAY.<sup>365</sup>

ZipCo operates in a closed loop arrangement by directly contracting with the merchant to provide acquiring services alongside marketing, customer acquisition, pipeline management software as well as fraud protection services.<sup>366</sup> Consumers are required to make monthly minimum payments and a monthly account-keeping fee when there is a balance remaining on their account.<sup>367</sup>

ZipCo holds an Australian credit licence to provide differentiated products, however, it is largely exempt from the National Credit Act as it provides continuing credit contracts.<sup>368</sup>

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## 11 Acquisitions by the ICS

**Exhibit 12** below provides a description of the acquisition history of Mastercard, Visa, Google and Apple in the past 10 years. Each of these global providers are expanding beyond their traditional bases and are quickly becoming integrated

<sup>362</sup> Please see <https://www.afr.com/companies/financial-services/chinese-giant-tencent-takes-300m-stake-in-afterpay-20200501-p54p63>.

<sup>363</sup> Please see <https://www.afr.com/companies/financial-services/zip-buys-quadpay-to-chase-afterpay-into-the-us-20200602-p54yqw#:~:text=Zip%20shares%20surge%20on%20QuadPay%20deal%20to%20chase%20Afterpay%20into%20the%20US&text=Zip%20Co%20shares%20have%20surged,its%20customer%20to%203.5%20million>.

<sup>364</sup> Please see <https://help.zip.co/hc/en-us/articles/360001589535-What-is-the-difference-between-Zip-Money-and-Zip-Pay->; <https://help.zip.co/hc/en-us/articles/360001595016-What-is-Zip->.

<sup>365</sup> Please see ASIC, Buy now pay later: An industry update, page 10 – 11 – annexed as **Annexure 57**.

<sup>366</sup> Please see <https://zip.co/investors/review-of-retail-payments-regulation-issues-paper-november-2019>.

<sup>367</sup> ASIC, Buy now pay later: An industry update, page 14 – annexed as **Annexure 57**.

<sup>368</sup> ASIC, Review of buy now pay later arrangements, page 6 – annexed as **Annexure 57**.



global payment platform providers. Mastercard and Visa are no longer card-based companies.

**Exhibit 12: Acquisition histories of Mastercard, Visa, Google and Apple**

Target name	Date	Deal value (USD)	Key functionality obtained from deal / Deal rationale
<b>Mastercard</b>			
Nets <sup>369</sup>	Aug 2019	\$3.19B	<p>Account-to-account payment business.</p> <p>Nets' business includes clearing and instant payment services, and e-billing solutions. The addition of Nets technology and teams strengthens Mastercard's existing account-to-account capabilities. Post-acquisition, the company's best-in-class real-time payment assets will provide unrivalled capabilities across three principal areas:</p> <ul style="list-style-type: none"> <li>• Infrastructure – complements Mastercard's existing technologies, catering to a more expansive customer base, leveraging its sophisticated, highly scalable, flexible and easy-to-deploy assets;</li> <li>• Applications for end-user solutions - like bill payment and open banking solutions, now delivered with greater speed and scale; and</li> <li>• Value-added services, like data analytics and fraud protection.</li> </ul>
Transfast <sup>370</sup>	Jul 2019	Not known	<p>Transfast is a global payments company with significant cross-border network reach. It has a proprietary payment network, consisting of direct integrations with 300+ banks and other financial institutions enables person-to-person, business-to-person and business-to-business payments services to our partners via APIs, SFTP, web and mobile product applications.</p>
Transactis <sup>371</sup>	May 2019	\$57M	<p>Transactis' technology helps companies improve their customers' bill payment</p>

<sup>369</sup> Please see <https://www.mastercard.com/news/press/2019/august/mastercard-advances-its-leadership-position-as-a-multi-rail-payments-company-with-the-acquisition-of-nets-account-to-account-payment-business/>.

<sup>370</sup> Please see <https://www.mastercard.com/news/press/2019/july/mastercard-further-extends-payment-network-with-acquisition-of-transfast/>.

<sup>371</sup> Please see <https://www.mastercard.com/news/press/2019/may/mastercard-strengthens-bill-payment-services-with-acquisition-of-transactis/>.

Target name	Date	Deal value (USD)	Key functionality obtained from deal / Deal rationale
			<p>experience, while reducing inefficiencies associated with paper bills and checks. It provides access to a flexible digital service that can be used by even the smallest businesses, such as schools and property owners, who often don't support online bill pay. Transactis distributes its technology through a broad network of bank and non-bank partners.</p> <p>With the acquisition of Transactis, Mastercard is able to address bill payment needs in online bank applications as well as in biller websites with enhanced end user interfaces, expanded payment options and digital bill presentment capabilities.</p>
Ethoca <sup>372</sup>	Mar 2019	Not known	<p>Ethoca is a global provider of technology solutions that help merchants and card issuers collaborate in real-time to quickly identify and resolve fraud in digital commerce.</p> <p>Through Ethoca's offerings, upon identification of a fraudulent transaction, the information is passed to merchants and they are asked to confirm the transaction. When fraud is suspected, they can stop or even reverse those transactions. The end result is a reduction in chargebacks.</p> <p>Ethoca's focus has been on stopping fraud and chargebacks for merchants processing card-not-present transactions. Merchants, the company said, can access fraud and transaction dispute data from card issuers via a portal or API. Ethoca Alerts, as they are called, are notifications tied to specific transactions that will result in chargebacks if merchants do not take action (through issuing a refund or stopping settlement). The process allows merchants to avoid chargebacks and their associated costs. The alerts offer details, including credit card numbers, authorization data, transaction amounts and merchant descriptors.</p>
VocaLink <sup>373</sup>	Jul 2016	\$920M	VocaLink operates key payments technology platforms on behalf of UK payment schemes, including:

<sup>372</sup> Please see <https://www.mastercard.com/news/press/2019/march/mastercard-acquires-ethoca-to-reduce-digital-commerce-fraud/>.

<sup>373</sup> Please see <https://newsroom.mastercard.com/press-releases/mastercard-announces-acquisition-of-vocalink/>.

Target name	Date	Deal value (USD)	Key functionality obtained from deal / Deal rationale
			<ul style="list-style-type: none"> <li>BACS – the Automated Clearing House (ACH) enabling direct credit and direct debit payments between bank accounts</li> <li>Faster Payments – the real-time account-to-account service enabling payments via mobile, internet and telephone</li> <li>LINK – the UK ATM network</li> </ul> <p>In addition, VocaLink offers innovative products with global potential, including ZAPP, a mobile payments app that leverages Fast ACH technology, and licenses its software and provides services to support ACH activities in Sweden, Singapore, Thailand and the United States.</p> <p>This acquisition accelerates MasterCard’s efforts to be an active participant in all types of electronic payments and payment flows and to enhance its services for the benefit of customers and partners. It will allow MasterCard to play a more strategic role in the UK payments ecosystem.</p>
YellowPepper <sup>374</sup>	Nov 2020	Not known	<p>YellowPepper is a fintech pioneer with proprietary technology and partnerships supporting leading financial institutions and startups in Latin America and the Caribbean. YellowPepper’s brand-agnostic platform enables issuers, processors and governments to quickly and securely access multiple payment rails for many payments flows through one single connection.</p> <p>The acquisition accelerates the adoption of Visa’s ‘network of networks’ strategy, to become a single point of access for initiating multiple transaction types and enabling the secure movement of money.</p> <p>With YellowPepper, clients will be able to enable new use cases and expand Visa’s value-added services, such as tokenization, identity validation, authentication and risk tools to deliver an integrated user experience. In addition, the acquisition will also</p>

<sup>374</sup> Please see <https://www.businesswire.com/news/home/20201120005677/en/Visa-Completes-Acquisition-of-YellowPepper> and <https://finance.yahoo.com/news/visa-completes-acquisition-yellowpepper-221500469.html>.

Target name	Date	Deal value (USD)	Key functionality obtained from deal / Deal rationale
			facilitate an easier integration with Visa Direct, Visa's real-time push payments platform, and Visa B2B Connect, Visa's non-card-based cross-border B2B payment network.
Verifi <sup>375</sup>	Sep 2019	Not known	Verifi provides end-to-end payment protection solutions that prevent disputes, eliminate chargebacks, and recover profits lost to chargebacks.  The acquisition of Verifi strengthens Visa's role of facilitating trust and transparency across the buying experience by extending its dispute resolution capabilities to support a broad range of payments brands and partners across the ecosystem.
Earthport <sup>376</sup>	May 2019	\$257M	Earthport offers cross-border payment services to banks, money transfer service providers and other businesses through the largest independent ACH network. The acquisition helps move Visa "beyond the card" and, writ large, helps the payments giant to embrace a "two-account disbursement model."
<b>Apple</b>			
Mobeewave <sup>377</sup>	Aug 2020	\$100M	Mobeewave is a startup with technology that could transform iPhones into mobile payment terminals.  Mobeewave's technology lets shoppers tap their credit card or smartphone on another phone to process a payment. The system works with an app and doesn't require hardware beyond a Near Field Communications, or NFC, chip. Integrating Mobeewave could let anyone with an iPhone accept payments without additional hardware.
AuthenTec <sup>378</sup>	Jul 2012	\$356M	AuthenTec develops technology to secure networks and mobile devices using fingerprint sensors and identity management. Terms of the deal included provisions for

<sup>375</sup> Please see <https://www.verifi.com/press-releases-and-announcements/visa-completes-acquisition-of-verifi/>.

<sup>376</sup> Please see <https://www.pymnts.com/visa/2019/earthport-acquisition-cross-border-payments/>.

<sup>377</sup> Please see <https://www.pymnts.com/apple/2020/apple-buys-mobeewave-for-100m/> and <https://www.bloomberg.com/news/articles/2020-08-01/apple-buys-startup-to-turn-iphones-into-payment-terminals>.

<sup>378</sup> Please see <https://www.forbes.com/sites/karstenstrauss/2012/07/27/apple-acquires-authentec-a-fingerprint-as-a-key/> and <https://thenextweb.com/apple/2012/08/16/the-real-reason-apple-acquired-authentec-because-needed-new-technology-quickly-products/>.

Target name	Date	Deal value (USD)	Key functionality obtained from deal / Deal rationale
			the company’s patents, control of its fingerprint sensors, touchchips and security technologies. It could allow Apple to integrate fingerprint technology to verify payments, ensuring that if the device was stolen, an authorised user would not be able to pay for items without biometric input first.
<b>Google</b>			
Softcard <sup>379</sup>	Feb 2015	\$50M	Softcard is a mobile payments app. Softcard is a joint venture between Verizon, AT&T, and T-Mobile that was formerly known as ISIS. Like Apply Pay, it relies on Near-Field Communications (NFC) to let people make payments with their phones — or other devices — without having to swipe a credit card.
TxVia <sup>380</sup>	Apr 2012	Not known	TxVia is a mobile payments technology company. The work that TxVia has been known for in its five-plus years of operations has been around offering its products in a “platform as a service” model. That includes enabling mass-market prepaid cards, general purpose reloadable cards and gift cards — as well as more B2B-focussed initiatives like incentive payments, government disbursements, payroll and expense management. TxVia has relationships with all the major payment networks, and in all, it manages some 100 million accounts.

<sup>379</sup> Please see <https://www.vox.com/2015/2/23/11559296/google-strikes-deal-with-big-wireless-carriers-buys-softcard>; <https://venturebeat.com/2015/01/16/one-word-explains-why-google-would-pay-100m-for-a-failing-payments-app/> and <https://www.pymnts.com/news/2015/google-buys-softcard-technology-and-buries-the-brand/>.

<sup>380</sup> Please see <https://techcrunch.com/2012/04/02/google-buys-txvia-banking-on-better-payment-tech-and-100m-customers-for-google-wallet/>.