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Via email: [ci.reforms@homeaffairs.gov.au](mailto:ci.reforms@homeaffairs.gov.au)

## Submission to Protecting Critical Infrastructure and Systems of National Significance

The Australian Payments Council (APC)<sup>1</sup> welcomes the opportunity to provide input to the [Protecting Critical Infrastructure and Systems of National Significance](#) (CI-SoNS) consultation process. The APC is the strategic coordination body for the Australian payments industry. It generates common industry positions for action and adoption by the industry and engages directly with the Reserve Bank of Australia's Payments System Board (PSB). APC members include financial institutions, card schemes, major retailers, telecommunications providers and other payment service providers as well as the Reserve Bank of Australia (RBA).

The APC is supportive in principle of the Department of Home Affairs (DHA) intention to uplift the security of Australia's critical infrastructure entities through the introduction of an enhanced regulatory framework. Given the potential impacts and obligations stemming from amendments to the *Security of Critical Infrastructure Act 2018* (SOCI Act), it is crucial that sector specific engagement continues as the reforms progress, to avoid unintended consequences and any overlap with existing frameworks. The Australian Prudential Regulatory Authority (APRA), for example has comprehensive prudential regulation and standards that address operational resilience and cyber resilience including [CPS234 information security](#) and [CPS 232 business continuity management](#), which presently provide comprehensive coverage of the proposed Positive Security Obligation (PSO).

The payments system plays a vital role in the functioning of the economy, and as a result is subject to extensive regulation and oversight by the RBA and the PSB. Given the extensive coverage of, and focus on finance sector regulation, the APC strongly supports DHA's clearly stated intention to build on rather than duplicate existing regulatory frameworks. To that end, our commentary aims to outline the scope of current supervision and oversight of payment systems.

### Payment Systems Regulatory Framework

The finance sector is subject to extensive oversight and regulation, with regulatory regimes covering:

- Prudential regulation;
- Financial services and product regulation;
- Cash and transaction monitoring regulation;

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<sup>1</sup> <https://australianpaymentscouncil.com.au/>

- Financial markets regulation;
- Clearing and settlement regulation; and
- Payment systems regulation.

Payment systems regulation is managed by the RBA and PSB as follows:

- Under the [Reserve Bank Act 1959](#), the RBA is the principal regulator of the Australian payments system. The PSB is responsible for determining the RBA's payments system policy.
- A Payment System as defined by [The Payment Systems \(Regulation\) Act 1998](#) (PSRA) means “a funds transfer system that facilitates the circulation of money, and includes any instruments and procedures that relate to the system”.
- A key element of the PSB’s responsibility for the safety and stability of the payments system is the supervision and oversight of [Systemically Important Payment Systems \(SIPS\)](#). The PSB establishes the Bank's policy for supervision and oversight of Financial Market Infrastructure (FMI), including SIPS. SIPS are expected to observe the Principles for FMIs issued by the Committee on Payments and Market Infrastructures (CPMI) and the International Organisation of Securities Commissions (IOSCO).
- The RBA's FMI Review Committee has formal responsibility for reviewing and approving annual assessment reports for each FMI operating in Australia subject to the RBA’s supervision and oversight, except in the case of RITS, which is retained by the PSB. The PSB retains the primary responsibility for approving periodic assessments of RITS because the RBA both operates and oversees this facility.
- Accordingly, RITS is the only domestic system that has been identified by the RBA as warranting oversight as a systemically important payment system. The APC supports this assessment.
- Given the importance of RITS to the wider payments system, the PSB has in place business continuity arrangements. These include detailed contingency plans, which are updated at least annually and are tested regularly, with recovery time targets up to 40 minutes, depending on the nature of the operational disruption.
- The RBA also has Business Continuity Standards (BCS) for all RITS participants. The BCS all take into account the relevant regulatory and operational requirements and are intended to complement them.
- Specifically in terms of cyber resilience, the [Cyber Operational Resilience Intelligence-led Exercises \(CORIE\)](#) framework has been developed by the RBA on behalf of the Council of Financial Regulators (CFR), to aid the preparation and execution of industry-wide cyber resilience exercises. Any additional requirements should align with the already defined roles and responsibilities of this existing initiative.

## Definitions and Thresholds for CI-SoNS

The following comments relate to the working draft definitions and thresholds discussed with the DHA as part of the bilateral engagement with the APC.

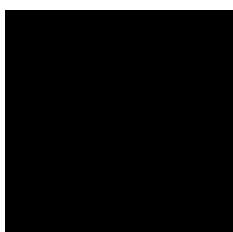
### Definition of critical infrastructure industry – Banking and Finance

- We understand that DHA is seeking to define what constitutes payments system critical infrastructure.
- Given the layered nature of the payments system and the wide range of service providers, it may be more appropriate for the SOCI Act to define payment systems by reference to the PSRA, and to include a definition of ‘services’ pertaining to that, rather than by reference to the Corporations Act.

### Definition of critical infrastructure asset

- The “definition of critical infrastructure asset” covers three categories of activity under “financial market infrastructure”: financial products, clearing and settlement facilities, and the operation of the payment system. Our commentary covers the latter.
- The RBA and PSB have oversight of systemically important infrastructure for payments and have determined that only RITS is systemically important.
- The systemic importance of RITS is illustrated in [Appendix 1](#) (*Australian Payments System Resilience and Governance*); it underpins the Australian payments system.
- The APC supports the RBA and PSB assessment and determination.

The APC appreciates the dialogue and collaboration with the DHA to date and we look forward to continued engagement as the reforms progress.



Robert Milliner

Chairman

Australian Payments Council

# Appendix 1

## Australian Payments System Resilience and Governance

In addition to cash and cheques, Australia has a number of different payment streams, many of which have been operational for decades with very mature ecosystems which have evolved over many years:

