

Dear colleagues

Apologies for a late reply. We have some comments on these documents related to the RBA's role under the SoCI Act, for your consideration. These are in line with our previously shared comments (refer to emails of August and March 2022).

1. Draft Security of Critical Infrastructure (Critical infrastructure risk management program) Rules 2022 (draft RMP Rules) – the draft RMP Rules adopt our previously suggested wording for section 6 (which essentially specifies the RBA as the relevant Commonwealth regulator for critical payment system assets). Thank you for this change.

Please note that the same language could be adopted in paragraph 4(1)(l) (which is intended to 'switch on' the RMP obligations for critical payment system assets). In particular:

- Paragraph 4(1)(l) of the draft RMP Rules currently specifies that 'a critical financial market infrastructure asset that is a payment system' is specified for the purposes of paragraph 30AB(1)(a) of the Act.
- As mentioned in our email in August, (albeit in the specific context of section 6) the phrase 'that is a payment system' may be too narrow and could be expanded to cover any asset referred to in paragraph 12D(1)(i) of the SOCI Act – i.e. an asset that *is used in connection with the operation* of a payment system that, in accordance with subsection (6) [i.e. as prescribed under the rules], is critical to the security and reliability of the financial services and markets sector. ). We would that paragraph 4(1)(l) of the draft RMP Rules be amended as follows:

*a critical financial market infrastructure asset that is a payment system referred to in paragraph 12D(1)(i) of the Act;*

2. Draft Explanatory Statement – the above point could also be clarified in the final version of the Explanatory Statement (see the first and fourth paragraphs under the heading 'Section 6 Relevant Commonwealth regulator – payment systems' on pages 5 and 6 of the draft Explanatory Statement).
3. Role of RBA – the second paragraph on page 6 of the draft Explanatory Statement includes the following:

*Relevant Commonwealth regulators will be responsible for educating and guiding entities towards best-practice security management wherever possible, and the RBA are best placed to provide this to entities that own and operate payment systems. This will include educating entities and ensuring their legislative and administrative obligations are understood; and developing and maintaining strong links with entities to promote ongoing best practice.*

We have previously raised some questions/concerns around similar language used to describe the RBA's role as the 'relevant Commonwealth regulator' for critical payment system assets. We don't think this paragraph is consistent with the responsibilities the RBA would have as a 'relevant Commonwealth regulator', and suggest it be deleted.

4. Guidance material – the wording in paragraphs 30 and 35 could be tightened up to clarify the limited scope of RBA’s powers in relation to the payment systems under the SoCI Act, along the lines of:

*The Reserve Bank of Australia is the relevant Commonwealth regulator in relation to the Risk Management Program obligation of the responsible entities for prescribed payments systems.*

More than happy to discuss if you have any questions.

Kind regards

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