

6 December 2018

Reserve Bank of Australia
65 Martin Place
Sydney NSW 2000

By email: nppsubmissions@rba.gov.au

New Payments Platform Consultation

Dear Sir/Madam

Industry Super Australia (ISA) undertakes policy research and advocacy on behalf of five million members of industry superannuation funds, to ensure that the policy settings for superannuation and the broader financial system of which it forms a part are consistent with improving their retirement outcomes.

ISA welcomes the opportunity to provide this brief submission in response to the Bank's consultation on the New Payments Platform (NPP).

ISA supports the development of a new payments platform that acts to deliver cost savings to the economy, partly by eliminating the value-leakage represented by the interest captured by banks as a result of the time-lags between clearing and settlement that characterise the present batch transfer system.

A new platform has the potential to benefit superannuation fund members by replacing lags of up to three days with real-time settlement on a 24/7 basis between funds, employers, members and the ATO. This could reduce leakage from the superannuation system, as well as enabling funds to provide real-time payment and balance data to members and tax authorities.

The NPP that began operating earlier this year has this potential. However, we are concerned that certain aspects of how the system is currently being allowed to operate may inhibit that potential, at the expense of members and to the advantage of the banks that currently dominate the governance and operation of the NPP.

In its recent report, *Competition in the Australian Financial System*, the Productivity Commission expressed a number of concerns about the governance and regulation of the NPP. We share those concerns, particularly as they relate to fees and access.

NPP Fees

New Payments Platform Australia (NPPA) has stated that transaction fees for direct shareholder participants will be set on a cost-recovery basis. However, as the Productivity Commission notes, those institutions who are not directly-connected shareholders will need to reach a commercial agreement to make use of the Platform. It is unclear how much they will pay as part of such agreements.

The current directly-connected shareholders are mainly for-profit banks who stand to lose revenue from the introduction of real-time settlement. There will be a strong incentive to replace this lost revenue, and perhaps exceed it, by charging fees well above those justified by cost-recovery.

There is significant potential for this to harm the financial interests of superannuation fund members.

A number of the largest superannuation funds in Australia are owned directly by banks. One way that banks generate revenue from their superannuation business is to charge fees for the provision of services to the superannuation trustee in excess of those that would be charged on an arms-length basis.

In its recent draft report, *Superannuation: Assessing Efficiency and Competitiveness*, the Productivity Commission noted evidence that retail funds, such as those owned by banks, make extensive use of related parties to provide a range of services and there is a strong correlation between such use and poor fund performance.¹

In this context, unregulated NPP fees offer a further potential means by which banks can extract value from their related superannuation businesses.

Industry superannuation funds are not owned by banks or insurance companies. They rely on banks to provide payment services and on being able to negotiate arms-length agreements that minimise costs for their members. Maintaining a downward pressure on external service costs is an important source of their ability to generate higher average net rates of return than retail funds. If NPP fees are unregulated, there is clearly an incentive and potential for banking providers to insist on terms that will erode those returns.

More generally, the nature of the NPP means it is not appropriate for fee levels to be determined solely by negotiation between Platform shareholders and those who wish to gain access.

The NPP is an important part of Australia's financial infrastructure, a product of public policy initiative, for which the RBA has provided a Fast Settlement Service. It has natural monopoly characteristics that make it highly vulnerable to being exploited

¹ Superannuation Draft Report, p. 301.

for commercial gain. In this context fee monitoring and review, as recommended by the Productivity Commission, is unlikely to be effective.

We share the view of ACCC Chair Rod Sims in this context:

“Experience has shown that, in circumstances of natural or legislated monopoly, price monitoring will have little or no longer term impact on the conduct of the monopoly infrastructure owner.

Why are we surprised? Price monitoring is not price regulation. What would you or any commercial owner of monopoly infrastructure do when there is no constraint on monopoly pricing? If you did not exploit this situation your board or shareholders would likely sack you, and deservedly so.”²

ISA therefore recommends that fees to non-NPP shareholders should be subject to regulation by the Payments System Board to ensure they are applied on a cost-plus basis that is consistent with the quasi-public utility status of the new payments infrastructure.

It will be important for public confidence that this regulation is subject to regular independent evaluation. The Australian National Audit Office should undertake this evaluation and publish their conclusions.

NPP Access

At present, NPP Regulations require that an entity must be an ADI in order to connect directly to the NPP. In addition, it is ultimately a matter for the NPPA Board, the majority of whom are incumbent banks, to decide if a new applicant should be accepted. There is no independent appeal mechanism if an applicant is refused.

In its report the Productivity Commission argued that “It is particularly important to ensure there are avenues for new entrants to access the NPP without relying on their potential competitors.”³ There was therefore a need for an access regime, rejecting the RBA’s view that imposing any such regime should await the new system’s further development.

We agree with the Commission that now is the time to impose an effective access regime. Delay will likely enable incumbents to consolidate their dominant position and inhibit broader future participation. To help achieve this the Commission recommended that non-ADIs with an Exchange Settlement Account at the RBA should be eligible.

² Rod Sims ‘How did the light handed regulation of monopolies become no regulation?’, speech to the Gilbert and Tobin Regulated Infrastructure Policy Workshop, 29 October 2015.

³ Competition in the Financial System, p. 510

We would add that a facilitative regime should involve application assessment by the Payment Services Board, with input from non-commercial members of the NPPA Board. Simply broadening potential access to ESA-holding institutions will not, by itself, sufficiently mitigate the conflicts inherent to having applications decided by entities with a material interest in limiting participation.

ISA looks forward to seeing the results of the consultation. Please contact me at mfisher@industriysuper.com or 0405744707 if we can be of further assistance.

Yours faithfully

A handwritten signature in black ink on a light-colored background, reading "M. Fisher".

Michael Fisher
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