

EXPOSURE DRAFT



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Payment Systems Legislation Amendment (2025 Measures No. 1) Regulations 2025

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2025

Sam Mostyn
Governor-General

By Her Excellency's Command

Dr Jim Chalmers [DRAFT ONLY—NOT FOR SIGNATURE]
Treasurer

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1 Name

This instrument is the *Payment Systems Legislation Amendment (2025 Measures No. 1) Regulations 2025*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	At the same time as the <i>Treasury Laws Amendment (Payments System Modernisation) Act 2025</i> commences.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *Australian Securities and Investments Commission Act 2001*;
- (b) the *Corporations Act 2001*;
- (c) the *Payment Systems (Regulation) Act 1998*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Main amendments

Schedule 1—Main amendments

Payment Systems (Regulation) Regulations 2006

1 Regulation 4

Insert:

AUSTRAC has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

2 At the end of the instrument

Add:

7 Special regulators, heads and eligible delegates

The following apply in relation to each item in the table:

- (a) for the purposes of paragraph 11C(1)(b) of the Act, an entity specified in column 1 of an item is prescribed as a special regulator;
- (b) for the purposes of paragraph 7(2)(b) of the Act, a person specified in column 2 of an item is prescribed as the head of the special regulator specified in column 1 of the item;
- (c) for the purposes of paragraph 31A(1)(b) and subsection 31A(2) of the Act, if an entity specified in column 1 of an item is a nominated special regulator in relation to a special designated payment system, then a person specified in column 3 of the item is prescribed as an eligible delegate in relation to the nominated special regulator.

Special regulators, heads and eligible delegates			
Item	Column 1 Special regulators	Column 2 Heads of special regulators	Column 3 Eligible delegates in relation to special regulators that are nominated special regulators
1	The Australian Competition and Consumer Commission (the <i>Commission</i>)	The Chairperson of the Commission	Each of the following: (a) a member of the Commission (within the meaning of the <i>Competition and Consumer Act 2010</i>); (b) a person who: (i) is referred to in subsection 27(1) of that Act; and (ii) is an SES employee or acting SES employee in the Commission.
2	The Australian Prudential Regulation Authority (<i>APRA</i>)	The Chair of APRA	Each of the following: (a) an APRA member (within the meaning of the <i>Australian Prudential Regulation Authority Act 1998</i>);

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Main amendments **Schedule 1**

Special regulators, heads and eligible delegates			
Item	Column 1	Column 2	Column 3
	Special regulators	Heads of special regulators	Eligible delegates in relation to special regulators that are nominated special regulators
			(b) a person who: (i) is an APRA staff member (within the meaning of that Act), other than a person engaged under section 47 of that Act (about consultants and other people engaged to perform services); and (ii) holds, or is acting in, a position in APRA that is equivalent to, or higher than, a position occupied by an SES employee
3	The Australian Securities and Investments Commission (<i>ASIC</i>)	The Chairperson of ASIC	Each of the following: (a) a member of ASIC (within the meaning of the <i>Australian Securities and Investments Commission Act 2001</i>); (b) a senior staff member (within the meaning of that Act), other than a person engaged under subsection 121(1) of that Act (about consultants etc.); (c) an SES employee or acting SES employee who is seconded to ASIC under section 122 of that Act.
4	AUSTRAC	The Chief Executive Officer of AUSTRAC	A person who: (a) is covered by the definition of <i>AUSTRAC entrusted person</i> in section 5 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> , other than a person covered by paragraph (c), (e) or (g) of that definition; and (b) despite paragraph (a) of this table item, is not a person covered by paragraph 225(3)(g) of that Act; and (c) either:

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Schedule 1 Main amendments

Special regulators, heads and eligible delegates			
Item	Column 1 Special regulators	Column 2 Heads of special regulators	Column 3 Eligible delegates in relation to special regulators that are nominated special regulators
			(i) is an SES employee or acting SES employee in AUSTRAC; or (ii) holds, or is acting in, a position in AUSTRAC that is equivalent to, or higher than, a position occupied by an SES employee

8 Persons authorised to use or disclose information—nominated special regulators

For the purposes of paragraph 26A(4)(d) of the Act, if an entity specified in column 1 of an item in the table is a nominated special regulator in relation to a special designated payment system, then a person specified in column 2 of the item is prescribed in relation to the nominated special regulator.

Persons authorised to use or disclose information		
Item	Column 1 Nominated special regulators	Column 2 Prescribed persons
1	The Australian Competition and Consumer Commission (the <i>Commission</i>)	Each of the following: (a) a member of the Commission (within the meaning of the <i>Competition and Consumer Act 2010</i>); (b) an associate member of the Commission (within the meaning of that Act); (c) a person who is: (i) referred to in subsection 27(1) of that Act; or (ii) engaged under section 27A of that Act
2	The Australian Prudential Regulation Authority (<i>APRA</i>)	Each of the following: (a) an APRA member (within the meaning of the <i>Australian Prudential Regulation Authority Act 1998</i>), other than the Chair of APRA; (b) an APRA staff member (within the meaning of that Act)
3	The Australian Securities and Investments Commission (<i>ASIC</i>)	Each of the following: (a) a member of ASIC (within the meaning of the <i>Australian Securities and Investments Commission Act 2001</i>); (b) a staff member (within the meaning of that Act)

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Main amendments **Schedule 1**

Persons authorised to use or disclose information		
Item	Column 1 Nominated special regulators	Column 2 Prescribed persons
4	AUSTRAC	An AUSTRAC entrusted person (within the meaning of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>)

9 Persons protected from civil liability—nominated special regulators

For the purposes of paragraph 30B(4)(d) of the Act, if an entity specified in column 1 of an item in the table is a nominated special regulator, then a person specified in column 2 of the item is prescribed in relation to the nominated special regulator.

Persons protected from civil liability		
Item	Column 1 Nominated special regulators	Column 2 Prescribed persons
1	The Australian Competition and Consumer Commission (the <i>Commission</i>)	Each of the following: (a) a member of the Commission (within the meaning of the <i>Competition and Consumer Act 2010</i>); (b) an associate member of the Commission (within the meaning of that Act); (c) a person who is: (i) referred to in subsection 27(1) of that Act; or (ii) engaged under section 27A of that Act
2	The Australian Prudential Regulation Authority (<i>APRA</i>)	Each of the following: (a) an APRA member (within the meaning of the <i>Australian Prudential Regulation Authority Act 1998</i>), other than the Chair of APRA; (b) an APRA staff member (within the meaning of that Act)
3	The Australian Securities and Investments Commission (<i>ASIC</i>)	Each of the following: (a) a member of ASIC (within the meaning of the <i>Australian Securities and Investments Commission Act 2001</i>); (b) a staff member (within the meaning of that Act)
4	AUSTRAC	An AUSTRAC entrusted person (within the meaning of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>)

Schedule 2—Other amendments

Australian Securities and Investments Commission Regulations 2001

1 After regulation 2BA

Insert:

2BAA Specific things that are not financial products—payment systems

For the purposes of paragraph 12BAA(8)(e) of the Act, each of the following is not a financial product:

- (a) the credit card system operated within Australia known as the MasterCard system or MasterCard network card system and designated as a payment system under section 11 of the *Payment Systems (Regulation) Act 1998* on 12 April 2001;
- (b) the credit card system operated within Australia known as the VISA system or the VISA network card system and designated as a payment system under section 11 of the *Payment Systems (Regulation) Act 1998* on 12 April 2001;
- (c) the debit card system operated within Australia known as Visa debit and designated as a payment system under section 11 of the *Payment Systems (Regulation) Act 1998* on 23 February 2004;
- (d) the payment system operated within Australia known as the ATM system and designated by *Designation No 1 of 2008* as a payment system under section 11 of the *Payment Systems (Regulation) Act 1998* on 10 December 2008;
- (e) the debit card system operated within Australia known as the EFTPOS system and designated by *Designation No 1 of 2012* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 12 June 2012;
- (f) the debit card system operated within Australia known as Debit MasterCard and designated by *Designation No 2 of 2015 (Designation of the Debit MasterCard system)* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 15 October 2015;
- (g) the prepaid card system operated within Australia and designated by *Designation No 3 of 2015 (Designation of the EFTPOS prepaid system)* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 15 October 2015;
- (h) the prepaid card system operated within Australia known as MasterCard Prepaid and designated by *Designation No 4 of 2015 (Designation of the MasterCard prepaid system)* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 15 October 2015;
- (i) the prepaid card system operated within Australia known as Visa Prepaid and designated by *Designation No 5 of 2015 (Designation of the Visa prepaid system)* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 15 October 2015.

Corporations Regulations 2001

2 After regulation 7.1.04N

Insert:

7.1.04P Specific things that are not financial products—payment systems

For the purposes of paragraph 765A(1)(j) of the Act, each of the following is not a financial product:

- (a) the credit card system operated within Australia known as the MasterCard system or MasterCard network card system and designated as a payment system under section 11 of the *Payment Systems (Regulation) Act 1998* on 12 April 2001;
- (b) the credit card system operated within Australia known as the VISA system or the VISA network card system and designated as a payment system under section 11 of the *Payment Systems (Regulation) Act 1998* on 12 April 2001;
- (c) the debit card system operated within Australia known as Visa debit and designated as a payment system under section 11 of the *Payment Systems (Regulation) Act 1998* on 23 February 2004;
- (d) the payment system operated within Australia known as the ATM system and designated by *Designation No 1 of 2008* as a payment system under section 11 of the *Payment Systems (Regulation) Act 1998* on 10 December 2008;
- (e) the debit card system operated within Australia known as the EFTPOS system and designated by *Designation No 1 of 2012* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 12 June 2012;
- (f) the debit card system operated within Australia known as Debit MasterCard and designated by *Designation No 2 of 2015 (Designation of the Debit MasterCard system)* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 15 October 2015;
- (g) the prepaid card system operated within Australia and designated by *Designation No 3 of 2015 (Designation of the EFTPOS prepaid system)* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 15 October 2015;
- (h) the prepaid card system operated within Australia known as MasterCard Prepaid and designated by *Designation No 4 of 2015 (Designation of the MasterCard prepaid system)* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 15 October 2015;
- (i) the prepaid card system operated within Australia known as Visa Prepaid and designated by *Designation No 5 of 2015 (Designation of the Visa prepaid system)* as a payment system under subsection 11(1) of the *Payment Systems (Regulation) Act 1998* on 15 October 2015.