Law Council
OF AUSTRALIA

Business Law Section

3 February 2026

Committee Secretary
Standing Committee on Economics
PO Box 6021
Parliament House
CANBERRA ACT 2600

By email: economics.reps@aph.gov.au

Dear Committee Secretary

Inquiry into Schemes, Digital Wallets and Innovation in the Payments Sector

1. This submission is made by the Financial Services Committee of the Business Law Section of the Law Council of Australia (the **Committee**) in response to the House of Representatives Standing Committee on Economics inquiry into the payments system. It is intended to provide high-level observations relevant to the future regulation of digital payment schemes and emerging technologies, particularly digital asset-based payment arrangements.

2. This submission does not address individual business models or specific legislative drafting issues, and should be read as complementary to, rather than duplicative of, prior submissions made to Treasury, ASIC, and other agencies in connection with related consultation processes: e.g. DAP / TCP reforms and payments licensing reforms.

Acknowledgement of work undertaken to date

3. The Committee acknowledges the significant work undertaken by the Parliament, Treasury, ASIC, and other regulators to date in progressing a more coherent and forward-looking framework for the regulation of digital payment systems, stored-value arrangements, and digital asset-enabled services. They are to be commended.

4. In particular, the staged consultation processes and the development of proposed legislative reforms reflect a sustained effort to balance consumer protection, financial stability, innovation, and regulatory certainty in a rapidly evolving market.

Regulatory settings, productivity and international competitiveness

5. Australia is currently facing material challenges in relation to productivity growth and living standards. In this context, regulatory settings for the payments sector should be calibrated to achieve appropriate consumer and system protections without introducing unnecessary complexity, duplication, or compliance costs.

6. There is a risk that regulation which materially exceeds, or is misaligned with, comparable international regimes may deter investment, inhibit innovation, or result in Australian consumers and businesses being served from offshore jurisdictions with less effective supervisory reach. Regulatory design should therefore be informed by international developments and be proportionate to identified risks. The Committee does not want Australia to become a 'compliance island', with the result that businesses choose not to invest in Australia, and Australian consumers take themselves offshore.

Features of an internationally competitive digital payments and digital assets market

7. In considering future reforms, it would be desirable for the Australian framework to support the development of an internationally competitive market for digital payments and digital asset-enabled services, while leveraging Australia's existing strengths. These strengths include a reputation for regulatory credibility, a stable legal system, and the presence of globally significant financial institutions and professional services providers.

8. Key features of such a framework would include regulatory clarity, functional consistency across comparable activities, risk-based obligations, and pathways that allow innovative services to be offered within the regulatory perimeter rather than outside it.

9. In particular, we note the rapidity of innovation in the sector and the globalised nature of the industry. The Committee also notes that, different to Australia:

    - there is a greater focus on passporting regimes in other comparable jurisdictions (e.g. the EU); and
    - there is a greater focus on 'how' the law is administered, separately to 'what' the law is. The Committee thinks that a focus on governance is useful in this regard.

Importance of early and ongoing expert engagement

10. The development and implementation of any new regulatory regime would benefit from the early and ongoing involvement of suitably qualified experts. This includes regulators, market participants, legal and compliance advisers, and industry representatives with practical experience in payments systems and digital assets.

11. Structured engagement at early stages can assist in identifying unintended consequences, operational challenges, and areas where regulatory objectives may be achieved more efficiently. Ongoing engagement is also important to ensure that the regime remains fit for purpose as technologies and market practices evolve.

12. Building on our point above, we note we have had a chance to review Thomson Geer's submission. While we do not endorse any one particular model, we do agree with the thrust of creating specialist frameworks to assist policymakers, regulators, businesses and (ultimately) consumers in what is an increasing challenging regulatory space.

Interaction with current legislative processes

13. The Committee notes that a number of Bills relevant to payments, stored-value facilities, and digital asset arrangements are currently before Parliament. The Committee also notes that submissions have been made to separate consultation processes in relation to these reforms.

14. This submission should be read as addressing the broader policy considerations raised by the inquiry and not as duplicating or substituting for those prior contributions.

Conclusion and further contact

15. The Committee supports continued, measured reform of the payments regulatory framework that protects consumers and system integrity while supporting innovation and international competitiveness.

16. The Committee welcomes the opportunity to contribute to the inquiry and to engage further as its work progresses. Please contact Committee Member Liam Hennessy at [redacted] if you wish to do so.

Yours sincerely



Adrian Varrasso
Chair, Business Law Section