



30 June 2021

Lyn Beverley
Committee Secretary
Senate Select Committee on Australia as a Technology and Financial Centre
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

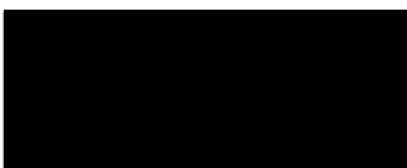
APRA welcomes the opportunity to further assist the Senate Select Committee into Australia as a Technology and Financial Centre (the Committee).

This submission builds on APRA's 20 January 2020 submission to the Committee, which outlined APRA's direct and supporting role in relation to FinTech and RegTech.¹ Annexure A outlines aspects of APRA's mandate and approach to regulation that may be relevant to the revised terms of reference of the Committee.

In summary, APRA is alert to contemporary issues emerging in the financial and technology sectors in Australia that have the potential to affect APRA-regulated entities and the stability of the broader financial system. APRA is engaging with these issues and, where relevant, considering what impact they may have on the regulatory framework.

APRA would be happy to expand on what is referred to in this submission, and would be happy to appear before the Committee if requested.

Yours sincerely,



Renée Roberts
Executive Director
Policy & Advice Division

¹ APRA, Submission to the Senate Select Committee on Financial Technology and Regulatory Technology, <https://www.aph.gov.au/DocumentStore.ashx?id=73247b38-b725-40ef-a022-1038d175ffac&subId=676838>

ANNEXURE A

APRA's mandate and the regulatory perimeter

As prudential regulator for the Australian financial sector, APRA is mandated to protect the interests of depositors, policyholders and superannuation fund members. It does so largely through two core functions: licensing and supervising specified financial institutions in accordance with legislative provisions in specified Acts of Parliament.² In exercising these functions, APRA's governing legislation requires it to balance its primary goal of safety with considerations of competition, efficiency, contestability and competitive neutrality, and in balancing these considerations, to promote financial stability in Australia.³

APRA's revised ADI licensing framework

Each industry Act prohibits the provision of specified services – banking, insurance, superannuation – unless the provider is authorised by APRA. Authorisation criteria and conditions are, however, matters for APRA, acting in accordance with its statutory mandate. In setting criteria and conditions – where the regulatory perimeter lies – APRA takes account of a range of factors, including broader public expectations and market developments.

As set out in APRA's previous submission to the Committee, in 2018, APRA introduced a restricted authorised deposit-taking institution (ADI) licensing framework that provides an alternative pathway to a full licence for new banking entrants. The phased approach was intended to support increased competition in the banking sector by reducing barriers to new entrants being authorised to conduct banking business, including those with innovative or otherwise non-traditional business models or those leveraging greater use of technology.⁴

Earlier in 2021, APRA commenced consultation on an updated approach to licensing and supervising new ADIs.⁵ The revised approach follows a review of APRA's ADI licensing regime which found there should be a greater focus on longer term sustainability, rather than the short-term ambition of receiving a licence. The review also took into account matters such as those raised in the Committee's third issues paper, namely, the closure of Xinja and the transfer of 86400.⁶

Under the revised approach:

- Restricted ADIs would be required to achieve a limited launch of both an income-generating asset product and a deposit product before being granted an ADI licence;
- there is increased clarity around capital requirements at different stages for new entrants, aimed at reducing volatility in capital levels and facilitating a transition to the methodology for established ADIs over time; and

² Primarily, the *Australian Prudential Regulation Authority Act 1998* and five 'industry Acts': *Banking Act 1995*, *Insurance Act 1973*, *Life Insurance Act 197*, *Private Health Insurance (Prudential Supervision) Act 2015* and the *Superannuation Industry (Supervision) Act 1993*: <https://www.apra.gov.au/enabling-legislation>

³ Section 8(2),

⁴ APRA, [Licensing guidelines for authorised deposit-taking institutions | APRA](#)

⁵ APRA Discussion Paper, [APRAs approach to new entrant authorised deposit-taking institutions](#) and Information Paper, [ADIs: New entrants - a pathway to sustainability \(apra.gov.au\)](#), March 2021

⁶ Parliament of Australia, Senate Select Committee on Australia as a Technology and Financial Centre, Third Issues Paper, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Financial_Technology_and_Regulatory_Technology/FinancialRegulatoryTech/Third_Issues_Paper

- new entrants would be expected to have more advanced planning for a potential exit, including an option to return deposits.

APRA expects these changes to enhance the chances of longer-term sustainability of new entrants in the banking sector. In doing so, this would increase their ability to assert competitive pressure on incumbents, both now and into the future.

APRA notes there is a healthy pipeline for new applications and continued demand for an updated licensing framework to facilitate the entry of new competitors.

Stored-value facilities

APRA is involved in developing a new regulatory framework for stored-value facilities (SVFs). SVFs are facilities that store monetary value which can be used as a means of making payments for goods and services or transferred to another person. SVFs can take the form of, among other things, pre-paid cards, travel cards, gift cards and certain types of digital wallets.

This work partly stems from a review of the regulation of SVFs conducted by the Council of Financial Regulators (comprising APRA, the Australian Securities and Investments Commission, Reserve Bank of Australia and the Treasury), which made a series of recommendations to modernise and simplify the regulatory framework.⁷ The review recognised the potential for SVFs to play a prominent role in the payments system, as they do in other Asia-Pacific jurisdictions, for example, and identified ways to facilitate innovation in this sector.

The Council of Financial Regulators, including APRA, is collaborating on the design and detail of changes to the legislative framework applying to SVFs and, in particular, to providers of Purchased Payment Facilities (PPFs), which are a type of SVF.⁸ APRA is also developing a revised prudential standard to apply to larger SVFs under the proposed new legislative framework. The revised standard would set requirements that are more targeted at, and commensurate with, the risks that the activities of large SVF providers pose. For example, APRA proposes to modify prudential requirements relating to liquidity, minimum capital held, and the fit and proper test, so as to better align the SVF regulatory framework in Australia with comparable overseas jurisdictions. APRA expects that the simplified framework will reduce the regulatory burden on SVF providers, minimise barriers to entry, and foster innovation and competition in the sector.

The use of restricted terms by financial businesses

The *Banking Act 1959* also sets a perimeter around the use of words or expressions such as bank, banker or banking; financial businesses (other than ADIs) seeking to use these terms must seek APRA's consent. The rationale for this requirement is that banks hold an important and trusted role in the community and it is important to ensure that the general public has confidence about whether or not they are dealing with an authorised banking institution.

APRA acknowledges there are changes occurring in the financial sector, many of which stem from participants with novel and innovative business models, such as those partnering with an established ADI to offer banking services to customers via a banking as a service platform.

⁷ Council of Financial Regulators, *Regulation of Stored-value Facilities in Australia: Conclusions of a Review by the Council of Financial Regulators*, <https://www.cfr.gov.au/publications/policy-statements-and-other-reports/2020/regulation-of-stored-value-facilities-in-australia/pdf/report.pdf>.

⁸ PayPal Australia and TransferWise Australia (now known as Wise Australia) are licensed to provide PPF facilities in Australia.

Such changes prompt a need to further consider the role played by the restriction on specified words and expressions.

APRA is working with Government to ensure the current regulatory environment delivers financial stability whilst promoting competition, for example through our consideration of the use of restricted terms by financial businesses. This involves careful consideration of the impact of policy on current and future market entrants and innovative business models like banking as a service.

APRA's regulatory framework

Under APRA's principles- and risk-based prudential framework, the primary responsibility for a regulated entity's financial soundness and prudent risk management rests with its board of directors and senior management. While APRA sets the broad framework within which this responsibility is exercised, it does not mandate particular business models or specify how or to whom a regulated institution offers its financial services.

APRA's framework does, however, set out requirements governing the amount of capital that ADIs must hold for risks arising from different activities. As a member of the Basel Committee on Banking Supervision, APRA has contributed to, and supports, the current consultation on minimum prudential requirements for banks providing crypto-assets services.⁹

APRA will continue to participate in domestic and international initiatives to carefully scrutinise these issues as they apply to APRA's overarching mandate to promote financial system stability in Australia, alongside the objectives of efficiency, competition, contestability and competitive neutrality.

APRA is also working with the Council of Financial Regulators on the risks and benefits of stablecoins and distributed ledger technology, including possible regulatory requirements.

⁹ Basel Committee on Banking Supervision Consultative Paper, *Prudential treatment of cryptoasset exposures*, <https://www.bis.org/bcbs/publ/d519.htm>.