



19 July 2023

Director
Payments Licensing Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

BY EMAIL ONLY: paymentslicensingconsultation@treasury.gov.au

Dear Director,

Submission in Response to the Payments System Modernisation (Licensing: Defining Payments Function) Consultation Paper

We refer to the *Payments System Modernisation (Licensing: Defining Payments Function) Consultation Paper* dated June 2023 ('**Consultation Paper**') which seeks input from various stakeholders in relation to a new licensing framework for payment service providers.

The Australian Catholic Bishops Conference ("**the Conference**") is a permanent institution of the Catholic Church in Australia and the instrumentality used by the Australian Catholic Bishops to act nationally and address issues of national significance. CDPF Limited ('**CDPF**'), its specific purpose entity, provides this submission on behalf of Catholic Development Funds ('**CDFs**') throughout Australia, and wishes to note its appreciation for the opportunity presented by The Treasury to respond to the Consultation Paper. Please refer to Appendix 1 for a more detailed description of the relationship between the Conference, CDPF, and CDFs.

Consultation Questions

CDPF makes this submission noting Consultation Question 15:

15. Should any other exclusions or exemptions be provided?

Existing Framework

On the public policy grounds of charitable and religious causes, both the Australian Securities & Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA) have provided exemptions from specific licensing, reporting and compliance requirements to Religious Charitable Investment Fundraisers, including CDFs, under the Corporations Act (2001)¹ and Banking Act (1959)².

CDFs provide significant value to society through the communities they serve. CDFs main clients, being schools, aged care facilities, hospitals, welfare services, parishes, and dioceses are recognised as a matter of public policy of holding a unique position within society.

¹ ASIC Corporations (Charitable Investment Fundraising) Instrument 2016/813

² APRA Banking exemption No. 1 of 2021

Changes Proposed in the Consultation Paper

We note that proposed functions that would be captured for licensing purposes, under the amendments included in the Consultation Paper include *payment initiation services*, among others. It is arguable that activities of CDFs would fall within the proposed definition of such a service, and possibly other functions that are envisaged by the Consultation Paper.

Obligations that would be imposed on such service providers under the proposed changes include the baseline requirements of obtaining an Australian Financial Services Licence (AFSL) and compliance with general financial services obligations, compliance with client money rules (where relevant), compliance with the ePayments Code (where relevant), and compliance with standards set by the industry bodies authorised by the Reserve Bank of Australia. This requirement would be counterintuitive to the above-mentioned regulatory exemptions provided through the APRA and ASIC instruments.

The intent of the modernised payments licensing framework is to ensure a fit-for-purpose payments system in Australia, implemented using a risk-based framework.

Request for Continuation of Exemptions

Noting the charitable and religious role and the purposes served by CDFs throughout Australia, CDPF submits on behalf of CDFs Australia-wide that the current legislative and regulatory exemptions CDFs are subject to, continue as a matter of public policy, and are not abrogated or curtailed by the implementation of the proposed changes contained in the Consultation Paper.

The stated intent of the proposed amendments would not be abrogated by continued licensing and other exemptions from the relevant Acts. CDFs have long demonstrated that their relevant exemptions do not detract from their commitment to ensuring they are responsible corporate citizens that serve their communities, and ensuring their customers are provided with protections and safeguards.

The closely related nature of the relationship between CDFs and their Catholic entity customers renders the need for the level of oversight and scrutiny that compliance with general ASIC and APRA-enforced provisions provide unnecessary. The benevolent intents and purposes of CDFs renders broader consumer protections redundant due to the charitable nature of CDFs and their position as not-for-profit entities.

The imposition of requirements consistent with for-profit financial organisations such as banks and credit card issuers would be heavily burdensome on CDFs and significantly jeopardise their continued ability to provide cost effective financial-related services to their communities. The cost itself in obtaining an AFSL, for example, for each CDF would be substantial. This alone would place a significant financial constraint on the sustainability of CDFs, for no recognised public benefit. The administration requirements associated with such compliance would further impair the ability of CDFs to maintain funding for their charitable activities carried out through the respective dioceses.

Conclusion

CDPF holds great concerns as to the adverse impact the imposition of stringent compliance with licensing requirements designed for for-profit enterprises may have on CDFs.

The administrative and financial burdens that would be placed on what are not-for-profit and charitable organisations would ultimately detract from the religious and charitable works that are carried out by CDFs for the benefit of the communities they serve.

CDPF requests on behalf of CDFs that current regulatory and licensing exemptions provided from statutory and regulatory compliance extended to the CDFs be continued notwithstanding any changes made to the relevant Acts arising from the reform to Australia's payment system as outlined in the Consultation Paper.

Yours faithfully



Jonathan Campton

Secretary
CDPF Ltd

Appendix 1: The role of CDPF Ltd in relation to the Conference and Catholic Development Funds

The **Conference** is a company limited by guarantee,³ and serves as the permanent national episcopal conference for Catholic Bishops in Australia. It is the instrumentality through which Australian Catholic Bishops act nationally and is a vehicle to address issues of national significance.

CDFs play an important role in the functioning and operating of Catholic communities throughout Australia, which in turn promotes beneficial outcomes to society. It should be noted that the 24 CDFs operate independently of each other and are considered to be standalone entities. CDPF acts as a sponsor for the purposes of the *Corporations Act*, provides advice and support to individual CDFs, and monitors compliance requirements associated with the ASIC exemption.

CDFs act as financial managers and advisors for Catholic Church dioceses, providing services such as an internal treasury service; source of finance and credit for the works of the Catholic Church; provision of means to promote charitable and educational activities; and the provision of financial management of investments and assets of Catholic Church entities. CDFs historically and generally accept investments from Catholic Church institutions that allows Catholic agencies to borrow on favourable terms to fund education, health, aged care, and welfare programs, activities, and infrastructure that is at the core of the Catholic Church's mission in Australia.

CDFs are not comparable to banks or other financial service providers in that they operate not-for-profit, act for charitable interests, and are a vehicle for the carrying out of the Catholic Church's mission.

CDFs make available their services to Catholic schools, aged care facilities, hospitals, welfare services, parishes, dioceses, and members of the clergy throughout the country.

All CDFs are registered charities with the ACNC, either in their own right, or as part of the registered diocesan entity to which they belong. CDFs apply any surpluses from their activities to the advancement of the Catholic Church's mission and purposes in Australia.

³ Australian Episcopal Conference of the Roman Catholic Church ABN 60 597 896 756.