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Australian Securities and Investments Commission  
GPO Box 9827  
Brisbane QLD 4001

11 February 2022

Via email only: [remediation@asic.gov.au](mailto:remediation@asic.gov.au)

Dear Ms Fairbairn,

Australian Payments Network (AusPayNet) welcomes the opportunity to respond to the consultation on CP 350 *Consumer remediation*. We strongly support the Regulatory Guide's purpose in promoting trust, reducing costs of external dispute resolution, and not having to 're-do' remediations.

AusPayNet agrees with ASIC's policy position and expectation for licensees to consider the most appropriate method of compensation in particular circumstances (RG 000.190) and apply 'reasonable endeavours' to contact the affected consumers to seek their payment instructions (RG 000.177 and 000.194).

This submission is focused on the use of automatic payments and cheques for remediation. In principle, AusPayNet strongly supports technology neutrality in regulations. The focus of this submission is to recommend that this technology neutral approach be extended to Regulatory Guide 000 as it refers to payment methods, and particularly where it cites payment by cheque.

### AusPayNet Membership and Role

AusPayNet is the industry association and self-regulatory body for the Australian payments industry. We manage and develop procedures, policies and standards governing payments in Australia. Our purpose is to enable competition and innovation, promote efficiency, and control and manage risk in the Australian payments ecosystem. AusPayNet currently has over 140 members, including financial institutions, operators of Australia's payment systems, merchants, and financial technology companies.

### Technology Neutrality in Payment Methods

In the Regulatory Guide, RG 000.193 states that:

*"In most cases, licensees should **prioritise making automatic payments** for example by electronic bank transfer, or by another viable means to process funds automatically. This could include a consumer's PayID details, or details of an account that a consumer holds with another reputable payment system."* (emphasis added)

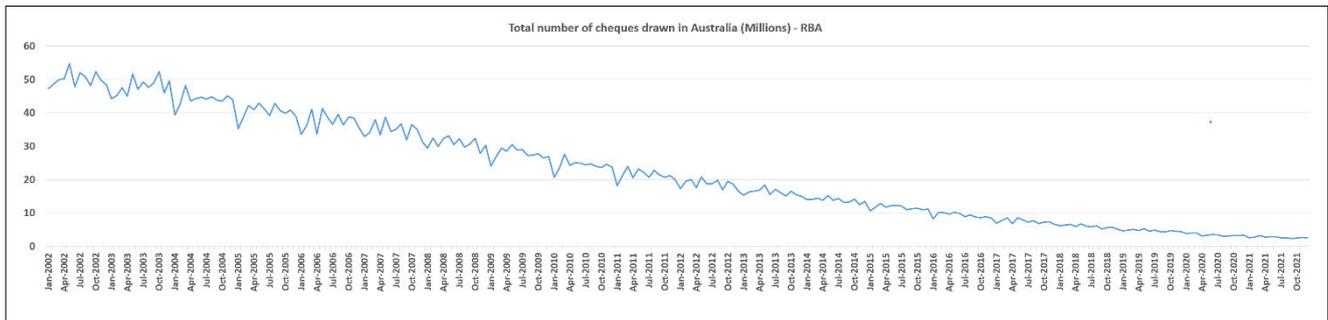
AusPayNet has been coordinating industry feedback for ASIC’s consultation on the ePayments Code, which regulates electronic payment facilities and the remediation/recovery of mistaken internet payments. Our submission complements the policy objectives of both consultations which are essentially to reduce the costs of external dispute resolution and avoid ‘re-dos’.

Based on the above, AusPayNet recommends clear requirements to first contact and ascertain with the affected consumers their preferred payment method and details. Our submission also supports AusPayNet’s principle of technology neutrality and thus, the avoidance of encouraging a prescribed payment method.

### Decline in the Use of Cheques

Cheque use is in long-term decline. Between January 2002 and December 2021, the number of cheques used in Australia fell by 95%.<sup>1</sup> According to the latest RBA figures in 2019, they now account for only 0.2% of consumer payments.<sup>2</sup>

The COVID-19 pandemic appears to have accelerated both the decline in cheque use and the uptake of digital payments. RBA figures show that in the two years from March 2020 to December 2021, which includes the onset of COVID-19 in early 2020, cheque use plummeted by 36%.<sup>3</sup>



The decline in cheque use has been led by consumers and merchants, attracted by the improved convenience and lower cost of digital payment methods. As the rate of decline accelerates, as stated by RBA Governor Philip Lowe, “it will be appropriate at some point to wind up the cheque system, given the high fixed costs involved in operating the system”.<sup>4</sup>

With the goal of ensuring that there are no regulatory barriers to businesses and consumers using more efficient payment methods, AusPayNet has requested that state, territory and Commonwealth Governments review and take action on relevant legislation identified, to either remove specific references to cheques or amend terminology to reflect payment method neutrality as appropriate.

AusPayNet supports the policy position that ‘reasonable endeavours’ to contact and make remediation payments do not include sending a cheque with no follow ups if left uncashed (RG 000.178 and RG 000.196 - RG 000.196). In line with the consumer-led decline in cheques and a potential future winding up of the legacy cheque system, AusPayNet recommends discouraging the use of cheques or removing the reference to cheques in the Regulatory Guide.

<sup>1</sup> RBA (accessed 11 Feb 2022), Payments Data: Table C5.1 ([link](#))  
<sup>2</sup> RBA (accessed 11 Feb 2022), Consumer Payment Behaviour in Australia: Evidence from the 2019 Consumer Payments Survey ([link](#))  
<sup>3</sup> RBA (accessed 11 Feb 2022), Payments Data: Table C5.1 ([link](#)).  
<sup>4</sup> Philip Lowe, RBA Governor, in his [address to the Australian Payment Summit in December 2018](#).

As a viable alternative, AusPayNet supports the Regulatory Guide's recommendations in using a relevant state, territory or Commonwealth unclaimed money regime and notifying consumers accordingly (RG 000.199 and RG 000.204).

### Summary

AusPayNet welcomes the opportunity to work with ASIC's Behavioural Research and Policy Unit on the issues we have identified. Alongside this, we welcome the opportunity to promote technology neutrality and explore digital payment options for remediation payments.

If there are any further questions in relation to this submission, please contact Ms [REDACTED] [REDACTED] in the first instance.

Yours sincerely,

[REDACTED]

[REDACTED]  
Chief Executive Officer