



Committee	House of Representatives Standing Committee on Economics
Inquiry	Schemes, Digital Wallets and Innovation in the Payments Sector
Question No.	001
Topic	Number and diversity of regulated payment providers
Reference	Written, 4 March 2026
Committee member	Hon Ed Husic MP

Question

ASIC's submission outlines the Government's proposed payments licensing reforms, which will modernise the regulatory framework and bring a broader range of payment service providers within ASIC's regulatory remit, including digital wallets, gateways, processors, remitters and merchant acquirers. This appears to be a significant structural update to reflect how the payments system now operates. Acknowledging that future tranches are expected to set out more details, how is ASIC preparing for the increase in the number and diversity of regulated payment providers?

Answer

ASIC is preparing for increased activity in the regulation of payment service providers (PSPs). This includes building internal capability and centres of expertise on the payments ecosystem and the diverse PSP sector ahead of the licensing reforms.

In the medium term, we expect the reforms will lead to an increase in licence applications – from newly-regulated entities and variations of existing licences – and the need for ASIC to provide regulatory guidance to help licensees prepare for the reforms.

In the longer term, ASIC will also have increased responsibility for compliance monitoring and enforcement for a larger group of Australian Financial Services (AFS) licensees and authorised representatives and will need to oversee new obligations. The legislative and policy reform process is underway and ASIC's work will continue to develop as the reform process progresses.

ASIC expects that the payments licensing reforms will lead to a significant increase in the number of new AFS licensees, all of whom will need to submit a licence application. ASIC will also need to process applications to vary current licences with non-cash payment facility related authorisations to add one or more of the new payment functions. The actual number of new licence and variation applications will depend on the final legislation and policy, and decisions made by entities about whether they wish to seek a licence or operate within an exemption – for example, as an authorised representative of another licensee.

ASIC will consult and engage further with industry and produce guidance on the payment functions that require specific licence authorisations, and the regulatory obligations that will apply to licensees. We will consider the diversity of the regulated payment providers to inform how we will tailor our engagement with the industry, and will also bear in mind that new licensees may have had limited previous interaction with ASIC.

ASIC will also need to update its website, ICT systems, forms and registers to reflect the legislative changes.

In the longer-term, ASIC will begin to plan for compliance monitoring and enforcement for a larger group of AFS licensees that covers existing and new regulatory requirements, including for safeguarding of client funds held with payments businesses and compliance with a new mandatory ePayments Code. Among other things, ASIC expects this to involve a need for increased data sharing between ASIC and APRA, and new ASIC data collection from PSPs and entities relying on certain exemptions under the law.

While ASIC is preparing for increased activity in the medium and longer term, the AFS licensing regime is well-established and we expect many aspects of ASIC's regulatory activities, including the processing of licence applications and compliance monitoring and enforcement, to reflect ASIC's existing processes and capabilities.

The 2024-25 Budget Measure 'Modernising Digital Assets and Payment Regulation' provided some funding for ASIC's implementation of the payments licensing reforms, subject to the development of legislation.



Committee	House of Representatives Standing Committee on Economics
Inquiry	Schemes, Digital Wallets and Innovation in the Payments Sector
Question No.	002
Topic	ePayments code
Reference	Written, 4 March 2026
Committee member	Hon Ed Husic MP

Question

ASIC administers the ePayments code, which is currently voluntary.

- a. Can ASIC explain what consumer protections relating to electronic payment transactions are unique to the ePayments code, as opposed to what is in legislation?
- b. Why doesn't the code extend to protect small businesses as account holders?
- c. What are the key consumer benefits of moving from a voluntary to a mandatory Code?

Answer

- (a) The ePayments Code (the Code) sits separately from ASIC-administered legislation, which includes the *Corporations Act 2001* (Corporations Act) and the *Australian Securities and Investments Commission Act 2001* (ASIC Act). The Code applies to payments, funds transfers, and cash withdrawal transactions initiated via electronic equipment. The Corporations Act and ASIC Act regulate 'non-cash payment (NCP) facilities'.

The regimes impose different but complementary obligations on service providers. Many service providers' activities will be subject to both the Code and the ASIC-administered legislation, but not in all cases. For example, there are carve-outs available in the legislation for NCP facilities depending on their characteristics (such as size of facility).

The Corporations Act and ASIC Act apply to payments only where there is a non-cash payment facility involved. The Corporations Act establishes Australian financial services (AFS) licensing requirements and related conduct obligations, including obligations to act efficiently, honestly and fairly, to maintain adequate training of representatives, to safeguard client funds, to lodge annual audited financial statements and to have adequate risk management systems and financial resources in place.

The ASIC Act provides consumer protections including prohibitions on misleading or deceptive conduct, unfair contract terms, and unconscionable conduct.

Both the Corporations Act's AFS licensing regime and the ASIC Act's consumer protections extend to small businesses.

The Code contains important protections that complement, and are in addition to, the consumer and investor protections in ASIC-administered legislation. Areas of potential overlap include the requirement to provide clear and unambiguous terms and conditions (similar to product disclosure requirements in the Corporations Act) and provide accountholders with appropriate advance notice before changing contractual terms (reflecting aspects of the unfair contract terms regime in the ASIC Act).

Key aspects of the Code, in terms of consumer protections, that operate beyond what is in the legislation are the following:

- Framework allocating liability (between the subscriber and accountholder) for unauthorised transactions
- Requirements relating to minimum expiry dates (noting that some payment facilities covered by the ePayments Code may not be caught by the Competition and Consumer Act 36-month minimum expiry date requirements) and disclosure of expiry dates
- Framework for sending and receiving ADIs to assist accountholders to retrieve funds that they have mistakenly transferred to an incorrect recipient
- ‘Listing and switching’ requirements to assist accountholders in obtaining a list of direct debit and recurring payment arrangements in place and facilitate the accountholder’s move to another ADI.

(b) The Code does not provide protections to small business – only to individual consumers.

During ASIC’s most recent review of the Code, which concluded in 2022, ASIC consulted on the option of extending Code protections to small business but ultimately decided not to. ASIC’s reasons were conveyed in [Report 718 Response to submissions on CP 341 Review of the ePayments Code: Further consultation](#) (REP 718).

In summary, ASIC’s proposal to extend protections to small business lacked industry support, which is necessary given the voluntary nature of the Code. It also presented complexities that went beyond the scope of the review, which was targeted to identify immediate opportunities to enhance efficiency of the Code. It was anticipated the Code would be revisited for a broader review, as part of the Government’s process of mandating the Code.

In our response, ASIC presented alternative options of a phased approach to extending the Code’s protections to small business – first to sole traders only and then more broadly to small business – and then proposed an opt-in alternative for subscribers to voluntarily extend protections to small business. However, none of those options received industry support. In particular, a phased approach presented complexity in implementing multiple process and systems changes. Further, settling on a definition of ‘small business’ for Code purposes (noting that the term is defined differently across various legislation for different purposes), proved significantly complex.

(c) As observed in Treasury’s second consultation paper for the proposed payments licensing reforms, [published in December 2023](#), a legislatively mandated ePayments Code would ensure that Australian consumers are better protected. This reflects the importance and necessity of baseline consumer protections that are available, where appropriate, across the payments ecosystem.

Treasury observed that the Code’s protections are important, but subscription is currently voluntary and that its subscribers comprise mainly ADIs. The subscribers do not reflect the full extent of consumer-facing participants in the payments ecosystem and many consumers may not receive the protections afforded under the Code in its current form.