Payment services regulation: submissions template

Introduction

This is the submission template for the Ministry of Business, Innovation and Employment's discussion document, *Payment services regulation*, available at: ***www.mbie.govt.nz/payment-services-regulation***.

Please send your completed submission as a Microsoft Word document to ***financialmarkets@mbie.govt.nz*** by **5pm on Friday 3 July 2026**.

Your name and organisation

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Publication of submission

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Responses to discussion document questions

We note you may answer any question that you have views on, whether or not you are part of the expected audience.

Questions for everyone	
1.	Do you agree with our description of payment services? If not, what would you change?
	Yes, we agree with the description of payment services.
2.	On a scale of 1 (not clear) to 5 (very clear), how clear is it what rules and protections apply to the payment services you provide or use?
	1 - Not clear
3.	On a scale of 1 (poor fit) to 5 (very good fit), how well in practice do the current rules and protections fit the payment services you provide or use?
	1 - Poor fit
4.	Please explain your answers to question 2 and 3. For example, are there areas where it is hard to tell what rules or protections apply, where similar services are treated differently, or where the current rules do not fit the activity well or create unnecessary costs or barriers? Please give examples. If there are areas where the current rules are clear and work well, please tell us about those too.
	We regularly receive queries and complaints from members which show that in general, consumers do not have a good understanding of which rules and protections apply to the payment services they use. It can also be difficult for us to establish what rules and protections apply to a payment service. *In our view, consumers cannot have a clear understanding of a framework that itself is not clear or consistent.* *We agree existing rules were built largely for deposit-taking and investment products and don't always align well with newer payment models.*
9.	Overall, do you think protections for people and businesses using payment services are clear, strong enough and reasonably consistent across different providers and services? Why or why not, and can you share examples and impacts? Examples of areas you could comment on include keeping customer money or stored balances safe, clear information for users, fair treatment by providers, reliability and resilience, responsibility when problems occur, and how losses or disputes are dealt with.

	No. Protections are neither clear, strong, nor consistent across different providers and services. *Clarity: consumers cannot reliably work out in advance what protections apply to a given payment service.* *Strength: where protections do exist, we consider they are weaker than they should be and weaker than comparable models overseas. For example, the current scam reimbursement arrangements are in an industry code, rather than legislation. Also, they only apply to banks and do not extend to non-bank payment service providers. As mentioned in the discussion document, there is also no general requirement for non-bank providers to segregate or safeguard customer funds, no standard disclosure requirements and no ongoing supervisions conduct. We note the intention to allow non-bank payment providers to refer to themselves as banks, without the protections (such as the Banking Code of Practice and Depositors Guarantee Scheme) that apply to traditional banks. In our view, this will increase, rather than decrease confusion for consumers.* *Consistency: protection currently tracks provider type and product structure rather than the risk of harm. This produces outcomes that are hard to justify – for example, a customer scammed via their bank may be able to get reimbursed but a customer who loses money through a non-bank payment facilitator may not have an equivalent path.*
10.	Do payment services and the protections around them work well for different groups of users (for example, small businesses, or people with different levels of digital access)? If not, what barriers or impacts do you see, and for whom?
	No, they do not work well for all users. We are particularly concerned about older people and those with limited digital literacy. Protections increasingly depend on consumers actively engaging with digital security features such as reading scam warnings, recognising confirmation of payee mismatches, understanding apps and identifying impersonation scams etc. Many of these safeguards assume a level of digital fluency and familiarity with online banking, that not everyone has. As a result, this group is disproportionately targeted by and exposed to scams and can be least equipped to demonstrate the 'reasonable care' required to be reimbursed under the current voluntary scam compensation scheme. We are also concerned about people with limited digital access (due to connectivity, lack of devices, cost etc). Newer payment services and their associated protections are typically delivered through smartphone apps and internet access. People without these are effectively locked out of the innovation and improved protections that might come with it. This risks a two-tier system where people most likely to be financially vulnerable also have access to the weakest, least modern and least protected payment options.
12.	If nothing changes about the rules that apply to payment services, how do you think payment services in New Zealand will develop over the next 2-3 years and over the

	longer term? For example, what might happen to costs and choice, new services entering and growing, and user confidence in protections and responsibility?
	We expect the status quo to continue with some improvement but slower and less consistent than it should be. This is likely to be driven by piecemeal pressure rather than a coherent framework. *Even though open banking will continue its phased rollout, we expect growth will remain constrained by dependence on sponsoring banks, unclear rules for newer models and a payments infrastructure body (Payments NZ) run by industry and with no power to compel its members to act.*
13.	Are there any other risks or concerns with payment services, now or in the future, that regulators should consider and that we have not already covered? Please give examples if you can. This could include risks for users, providers, or the wider financial system.
	We are concerned there could be a liability gap in open-banking enabled payments as it seems unclear who bears the loss when a scam or error occurs via a third-party payment initiation service rather than the banks' own channels.
14.	Do the proposed objectives look like the right goals for any future work on rules for payment services? What would you change, and why?
	Mostly. However, we would add an explicit objective that any future framework be backed by independent regulatory oversight and enforcement, rather than relying on industry bodies, codes or self-regulation to deliver outcomes. *The objectives are all things New Zealand has tried to achieve before through industry-led mechanisms, without success. An objective is only meaningful if there is a mechanism with teeth to hold providers to it.*
15.	If we cannot achieve everything at once, which objectives should be prioritised, and why?
	We would prioritise having reliable, efficient and resilient payment services and helping users understand and trust payment services.
16.	Do you agree that any future rules should apply based on what a provider does (the payment service), rather than what type of organisation it is (for example, a bank or a non-bank provider)? Why or why not?
	Yes, an activity-based, tech-neutral approach is consistent with the direction we have taken elsewhere in financial conduct regulations and avoids creating incentives for providers to structure themselves around weaker rules designed for a different entity type.

17.	Should any future rules apply differently depending on the risk or size of the service (lighter rules for lower-risk or smaller services and stronger rules for higher-risk or larger services)? Why or why not?	
	Yes, in principle, but proportionality must be assessed on risk to consumers, not just size. Any size or risk thresholds should be reviewed regularly and triggered automatically as a provider grows, rather than relying on providers to flag that they should be subject to stronger obligations.	
20.	What future approach (or mix of approaches) for payment services do you think could work best for New Zealand, and why?	
	We support option (e) – baseline rules set in legislation for all payment service activities, combined with licensing and proportionate oversight for higher-risk or larger-stored value and token-based services. This must be enforced by an independent regulator (i.e. the FMA) with real penalties for non-compliance. *We strongly oppose relying on industry standards or co-regulatory models (option f). Payment services are core public digital infrastructure – as essential to participating in the economy as electricity and telecommunications. However, New Zealand currently lets much of that infrastructure be governed by Payments NZ.* *Payments NZ is an industry-owned governance body whose ability to mandate change depends on agreement among participating banks. As a result, system-wide reforms are slow where incentives between participants are not aligned. Progress on initiatives such as real-time or near real-time payments capability and confirmation of payee has been incredibly slow compared with other jurisdictions, and scam reimbursement protections have developed through voluntary industry codes rather than being established through a statutory framework.* *Consumer NZ considers that where payments infrastructure has become essential to daily life, reliance on industry-led coordination alone is insufficient to deliver timely, consistent outcomes for consumers.* *We consider stronger, independent statutory oversight is needed to ensure system-wide investment decisions prioritise consumer outcomes and system integrity.*	
21.	Do you have views on whether any future payment services framework should take account now of possible prudential risks that may arise over time? If not, what signs or thresholds would suggest that prudential rules or oversight may be needed later?	
	Yes. New Zealand has repeatedly waited until a class of financial provider became large enough to pose real risk before applying proper prudential settings. We would not want to see that pattern repeated with newer payment providers holding significant customer balances, where early monitoring and clear thresholds for future action would be far preferable to retrofitting protections only after harm has occurred.	

	Relevant early-warning thresholds could include: the size of customer balances held, the number of users for whom a wallet functions as a primary transaction account, and the degree of interconnection with banks and core payment systems.
26.	Have we missed anything important? Please share any issues, evidence, data sources, or practical experiences that you think MBIE should consider when deciding whether the rules for payment services should change.
	Yes, as stated throughout the submission, we think this work should be connected to the question of whether bank-owned, industry-led governance of payments infrastructure remains appropriate, given its poor track record on delivery. *We also think scam reimbursement should sit inside this framework. The current scam compensation arrangements are a voluntary addition to the Code of Banking Practice, not a statutory protection, and do not extend to non-bank payment service providers at all. Any future payment services framework should bring fraud/scam liability and reimbursement obligations into the same statutory, regulator-enforced baseline as the rest of this consultation.* *Although surcharging is out of scope, the broader shift to digital-first payment services has real consequences for people who cannot or do not want to use them. We encourage the government to ensure this work does not inadvertently accelerate the decline of accessible, low-tech payment options.*

Questions for businesses and consumers	
5.	Have you experienced any problems with payment services (such as fees you didn't expect, delays in getting paid, outages, or scams/fraud)? If yes, what happened? Was it clear who was responsible and what protections applied?
	Yes, we regularly receive complaints from consumers showing consumers have experienced problems with payment services. *Scams are one of the biggest problems. Even under the new voluntary reimbursement scheme, responsibility is far from clear at the point of loss because reimbursement depends on whether the bank can show it met its own commitments and whether the customer is judged to have taken "reasonable care". In our view, this is a threshold that is inherently subjective and only resolved after the fact, often via a complaint to the Banking Ombudsman. Consumers frequently do not know whether they will be covered under the scheme, by whom, or under what test. This is the ambiguity we raised in our 2024 scam campaign calling for a mandatory scheme with a "gross negligence" (not "reasonable care") threshold and an independent regulator with penalty powers, similar to the UK model, because we did not believe a voluntary industry code would deliver clarity or consistency for consumers. That concern has been borne out.*

	Unexpected fees have also been a long-running concern for us, which is why we continue to support a ban on card payment surcharges, both instore and online. We also support an 'all-inclusive pricing' rule, similar to Australia to ensure traders are not adding sneaky fees to online transactions later in the process. We receive occasional complaints about unexpected fees in other payment contexts – such as international transfers, where fee structures are not presented clearly upfront. We have written about this in our recent submission on the Financial Markets (International Money Transfers) Amendment Bill. *Payment system outages periodically leave consumers unable to pay for goods or services. Responsibility in these events is usually clear, but consumers have little visibility into what recourse, if any, is available for consequential losses, for example a missed payment causing a late fee.*
6.	Do you feel you have enough choice of payment options, and are prices and service levels improving over time? If not, what are you noticing?
	No, New Zealanders are still largely limited to cash, EFTPOS and major card scheme payments. Genuine alternatives exist in most comparable jurisdictions but have been slow to materialise in New Zealand. The Commerce Commission's market study into personal banking found the level of innovation in New Zealand's banking sector was lower than expected in a genuinely competitive market. Open banking is a promising development, but it has taken too long to arrive, is currently largely limited to the major banks and its consumer benefits are still largely untested. *Merchant service and interchange fees have also historically been higher in New Zealand than comparable markets. This is a cost that is ultimately passed through to consumers in the form of higher prices or surcharges. While we support the regulatory interventions that have started to address this – we do not consider they are sufficient because we still receive regular complaints about undisclosed, excessive and unavoidable card payment surcharges. In some cases, people have even been charged for making EFTPOS payments.* *Basic protections consumers now expect, like confirmation of payee, arrived years after other jurisdictions adopted them, and only after direct pressure.* *Progress in the sector consistently happens only once regulators or the government intervene, rather than through ordinary competitive pressure. Left to develop on its own timeline, choice, pricing and service quality in payments have stagnated. We support enforceable rules rather than further reliance on industry-led improvement.*

Questions for payment services providers	
7.	In your view, what are the main barriers that have slowed the launch or growth of payment services in New Zealand? If possible, please give examples and explain what

	the impact has been (for example extra costs, delay, reduced investment, or a decision not to launch or scale).
	Although this is a question for payment service providers, we still wish to answer it. *In our view, the clearest barrier is the governance of core payments infrastructure by Payments NZ, an organisation owned and run by the banks that use it, with no statutory mandate and no power to compel its own participants to invest or modernise.* *Comparable jurisdictions with advance payments systems have generally taken government-led approaches to payments modernisation, rather than leaving the development to an industry-led body. A similar approach is required in New Zealand.*
8.	What barrier(s) would make the biggest difference to address first, and why?
	Addressing the governance of core payments infrastructure would make the biggest difference. If this is not addressed, even a well-designed front-end framework risks producing services that are safer and clearer for consumers, but still slow and dependent on the goodwill on incumbent banks to reach the market.
18.	If rules should apply differently depending on risk or size, what is the most practical way to measure risk or size for payment services, and why? (For example, customer balances held, transaction volumes, whether customer money/value is held and for how long, customer type, reliance by other businesses/providers, cross-border activity, or outsourcing.)
	No comment.
19.	Are there newer payment service models where today's legal definitions and categories do not fit well in practice (for example, where it is unclear which rules apply, where more than one set of rules seems to apply, or where similar services face different rules)? Please give examples and the practical impact.
	No comment.
22.	How should any future rules for payment services be timed and designed so they fit well with other changes (for example, regulated open banking, expanded ESAS access and payments modernisation)? Are there any "do this first" or "don't do this at the same time" issues we should watch?
	No comment.
23.	If you operate across New Zealand and Australia (or rely on Australian partners), what practical frictions do you face today? Where would closer alignment make the biggest difference (for example, duplicated compliance steps, inconsistent definitions or different expectations for similar services)?

	No comment.
24.	How should any future payment services rules support cross-border payments (such as remittances or payments related to international trade)? *No comment.*
25.	If you have experience with payment service rules in other countries (including Australia), what parts work well in practice and what parts do not? What lessons should New Zealand take from these experiences? *No comment.*

Question for providers or users of digital tokens	
11.	What are the most important risks or uncertainties with token-based payment services in practice? What would make it clearer what protections apply and who is responsible when something goes wrong? Please give examples where you can. Examples of areas you could comment on include custody or control, cash-out (redemption), any "yield" features, what happens when something goes wrong, and cross-border interoperability or alignment. *No comment.*