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### **ASB response - Interbank payment network - request for views**

ASB Bank Limited (**ASB**) welcomes the opportunity to provide feedback on the proposed designation of the interbank payment network under the Retail Payment System Act 2022 (**RPSA**).

ASB understands from the consultation paper (**Paper**) that the Commerce Commission (**Commission**) is concerned that New Zealanders need access to a range of payment solutions that are fast, cheap and transparent. ASB agrees. We also consider consumer safety is paramount and that innovative new payments services need to be deliverable at scale to ensure their success. Further:

- New Zealand has traditionally been seen as a leader in innovation of payments services. A 2022 World Bank publication, “Global Patterns of Fintech Activity and Enabling Factors”, involved a sample of 125 countries with data on its fintech activity index. That analysis ranked New Zealand fifth out of 74 countries.
- ASB has and continues to invest heavily in payments innovation. Many such innovations have delivered real and immediate value to all 1.6 million of ASB’s customers, such as seven-day processing and half hourly interbank settlements. ASB was the first to provide mobile to mobile payment solutions via its banking app. These services are readily available and provided free of charge to all personal customers who open an account at ASB.
- Some innovations have been less successful (QR codes, Proximity Payments using facial recognition, social payments) and have served as reminders that the New Zealand market, while ambitious and dynamic, is small and faces increasing pressure from global technology giants like Apple, which has significantly greater scale and reach than ASB.
- ASB is prioritising the development of standardised API Centre standards, has committed to meeting the 2024 delivery dates. While we look forward to the opportunities that an open banking environment will bring, we are concerned that the rising tide of fraud and scams will mean an open banking environment, if not designed well and implemented safely, will create more opportunities for cybercriminals, causing further harm to New Zealanders.
- More regulation will not resolve the challenges faced by incumbents or new entrants in successfully innovating new payments solutions. Rather, a roadmap for the future of payments needs to be designed carefully in collaboration with government, regulators and the banking sector, to ensure effective sequencing of regulatory reforms to minimise risks to New Zealanders, incorporating key learnings from the implementation of open banking in Australia and the United Kingdom.

ASB's general views on the proposals outlined in the Paper are set out in more detail in Appendix 1 to this letter and our responses to the Paper's specific questions are set out in Appendix 2.

In summary, ASB submits:

**1. Payments innovation has progressed in a way that delivers value to New Zealanders at scale and at no cost.**

- a. ASB has invested significant time and resource innovating its payments services and supporting innovation to deliver immediate value to all 1.6 million of ASB's customers. For more than a decade, ASB customers have been able to pay to a mobile number or email address rather than having to input the payee's account number. To make payments easier for customers we offer Debit Cards, EFTPOS, Apple Pay, Google Pay, Garmin Pay and digital experiences to help IRD and Trade Me payments. These services have been developed and provided free of charge. Earlier this year ASB introduced seven-day payments processing, to build on the half-hourly settlements that occur between banks.
- b. If there was sufficient customer demand for it, interbank settlement times could be further reduced. It is worth noting however, that "real-time" payments have tended to result in increased fraud in overseas jurisdictions, as the faster the payment is processed, the harder it is for banks and payments processors to monitor and prevent fraud and scams as they occur.

**2. The proposed use of regulatory powers under the RPSA to mandate the development of open APIs is unnecessary and potentially detrimental, given that:**

- a. We collect thousands of points of feedback from our personal customers every month through various channels and forums. A lack of payment options or the speed of payments in New Zealand has not appeared as a priority issue. It is therefore unclear what problem the Commission is attempting to solve through the RPSA designation. In our view, regulatory interventions under the RPSA should be limited to meeting a clearly defined consumer need in the New Zealand market or protecting customers from harm. This does neither.
- b. We are on track to meet the dates agreed with Payments NZ API Centre. The API Centre is well-advanced in its work designing and supporting New Zealand's open banking future, creating a framework that will ensure fast and secure data sharing. That industry-led process is likely to be more effective, flexible, fit for purpose, and cost-effective than a mandatory regulatory regime. Development of the API Centre Standards is a priority for ASB, both in terms of meeting the API Centre deadlines but also implementing the commercial aspects needed to support the open banking framework, such as putting bilateral commercial agreements in place ahead of launch.
- c. Increased competition is already occurring (without the need for mandatory open APIs). While ASB is a large bank in the New Zealand market we face increasing competitive pressure from global technology companies like Apple and new short-term financing options such as Buy Now Pay Later (BNPL), which are popular with consumers and merchants. Many new entrants to the market are large global companies with greater economies of scale than local FinTechs or New Zealand banks which allows them to invest more heavily in innovation, improving chances of success. For smaller players, we acknowledge that it will be difficult to succeed without a commercial model that can

compete with the free payments services the banks offer, or the scale and ease of access offered by global companies who are entering the payments space.

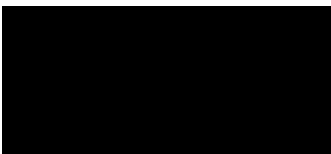
- d. Mandatory open APIs will not remove the existing challenges for innovators in the New Zealand market. Many local payments innovations have not proven successful, not because of a lack of bank support, but rather resistance from merchants to adopt new hardware/technology, lack of industry alignment or collaboration (in part due to competition constraints), lack of bargaining power with global technology firms and lack of customer need (being just some examples). For similar reasons, open banking (whether effected through regulated or voluntary measures) has not had a transformative effect on competition in overseas markets. Only approximately 0.15% of Australia's main bank customers have consented to information sharing under Australia's CDR regime.
- e. An unintended consequence of regulatory intervention could be to create friction or otherwise hamper the sector's ability to adopt technological advancements and adapt to changing customer preferences.

**3. The development of open banking under the RPSA would be premature given the proposed Consumer Data Right (CDR) under the draft Customer and Product Data Bill (the CDR Bill).**

- a. Introducing new obligations under the RPSA, where similar matters are being considered in the context of the draft CDR Bill, may result in inconsistent frameworks. We also query whether it is appropriate to use designations and standards under the RPSA (secondary legislation) where primary legislation is already in development to address substantively similar matters, subject to the fuller scrutiny and debate that the Parliamentary process brings. Further, any subsequent rework to comply with legislation risks diverting investment away from other customer innovations for no net benefit.
- b. Any regulatory intervention by the Commission should be focussed on ensuring government, public sector and industry alignment on the roadmap for delivering a safe and secure CDR and open banking framework, and ensuring that modernising payments is preceded by an aligned, simple and accessible digital identity framework. This will help develop consumer trust and promote wider uptake of open banking than we have seen in overseas jurisdictions, while combatting rising frauds and scams, a key priority for ASB.

ASB welcomes the opportunity for further discussions or clarifications on our submissions.

Yours faithfully



Adam Boyd  
EGM Personal Banking  
ASB Bank Limited

## **Appendix 1: General comments from ASB on the proposals outlined in the Paper**

### **1. Introduction**

ASB supports many of the aims and objectives in the Paper and is already working towards the development of an innovative financial services landscape in New Zealand.

However, ASB believes the proposed use of the Commission's powers under the RPSA to mandate the creation and disclosure of open APIs is unnecessary and premature. Our submission below sets out our position on these matters in greater detail.

### **2. Payments innovation has steadily progressed in a way that delivers customer value at scale**

- a. ASB has invested significant time and resource innovating its payments services and supporting innovation to deliver immediate value to all 1.6 million of ASB's customers. For more than a decade, ASB customers have been able to pay to a mobile number or email address rather than having to input the payee's account number. These services have been developed and provided free of charge. Earlier this year ASB introduced seven-day payments processing, to build on the half-hourly settlements that occur between banks.
- b. If there was sufficient customer demand for it, interbank settlement times could be further reduced. It is worth noting however, that "real-time" payments have tended to result in increased fraud in overseas jurisdictions, as the faster the payment is processed, the harder it is for banks and payments processors to monitor and prevent fraud and scams as they occur.
- c. While payments in New Zealand are not "real time", the industry has developed some of the other key aspects of "real time" payment infrastructure which deliver immense value, being real-time fraud detection and payee verification. In 2015, ASB teamed up with three mobile network operators and BNZ and to launch Semble, the first ever integrated mobile wallet to New Zealanders. In 2017, ASB helped Worldline launch New Zealand's first secure online direct from account payment method, 'Online Eftpos.' In 2019 we jointly trialled instore Proximity Payments using facial recognition, and 2020, we further trialled QR code payments at point-of-sale. We continue to work closely with Worldline to build out the innovation roadmap including online chatbot payments, pan-bank person-to-person payments, and proprietary contactless debit instore. In 2019 ASB and Westpac piloted Zeal, an open banking social messaging payment app that enabled real time payments between friends and potentially small businesses.
- d. ASB continues to work closely with innovators such as Blinkpay to develop new and convenient payment choices for New Zealanders.
- e. By way of contrast, the Australian Banking Association (ABA) reported in July 2023<sup>1</sup> that, as at May 2022, banks had spent more than AUD \$1 billion establishing data sharing under the CDR. ABA further noted that approximately only 0.15% of Australian bank customers had actively consented to data sharing under the Australian CDR.

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<sup>1</sup> "Bank on it: Customer Trends 2023" Australian Banking Association, July 2023, page 23

### 3. Designation of the interbank network is unnecessary and is unlikely to shift the dial

- a. The proposal to designate the interbank payment network, and subsequently mandate the development of open APIs through network standards, is unnecessary. That is primarily because the development of open APIs is on track to meet agreed delivery dates in 2024 (through collaboration with the Payments NZ API Centre).

*The New Zealand banking sector has led the way on innovation*

- b. New Zealand has traditionally been seen as a leader in innovation of payments services.<sup>2</sup> A 2022 World Bank publication, “Global Patterns of Fintech Activity and Enabling Factors”, involved a sample of 125 countries with data on its fintech activity index”. That analysis ranked New Zealand fifth out of 74 countries.
- c. ASB refers the Commission to the Payments NZ “Benchmarking New Zealand’s payment systems” report dated May 2016<sup>3</sup> which details areas where New Zealand led the world. The Payments NZ report stated that “New Zealand (NZ) is renowned for having one of the most developed and dynamic payment systems in the world. Those systems are considered efficient, safe and secure and are highly regarded internationally.”
- d. The financial industry’s development of standardised APIs for open banking has involved substantial collaboration and consultation among stakeholders in the banking and fintech sectors resulting in robust and well-documented API specifications and rules. This alignment avoids the creation of duplicative or conflicting technical standards, thereby streamlining operations and promoting greater clarity and uniformity across the industry.
- e. The API Centre was launched in May 2019 and has made progress in a relatively short period. In particular:
  - i. A significant body of work has been delivered by the API Centre on establishing industry open API standards, including a payment initiation API standard and an account information API standard. That has involved significant investment of resources by participants, not only in relation to the development work itself, but also in relation to establishing commercial arrangements to support open banking once launched.
  - ii. There have been five significant iterations of the API standards to date since the first standard was published in 2019. The latest version of the standards (version 2.3) was published in June 2022 and includes enduring payment consent as a mandatory functionality. This is an innovative, enabling feature of these standards in high demand by merchants.
  - iii. As the Paper recognises, various aspects of the API Centre’s partnering project have also been delivered. This includes developing a centralised due diligence assessment service, a proposed state partnering and accreditation framework and support information for payment providers obtaining insurance.

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<sup>2</sup>[https://comcom.govt.nz/data/assets/pdf\\_file/0019/329032/ASB-Submission-on-Market-study-into-personal-banking-services-Preliminary-Issues-paper-7](https://comcom.govt.nz/data/assets/pdf_file/0019/329032/ASB-Submission-on-Market-study-into-personal-banking-services-Preliminary-Issues-paper-7)

- iv. The API Centre has also established an initial industry implementation plan which sets minimum dates for the five largest banks to build APIs to version 2.1 of the standards and be ready to partner with payment providers. The minimum delivery dates for the four major banks are 30 May 2024 (for the payment initiation APIs) and 30 November 2024 (for account information APIs). This implementation plan will progressively expand as new iterations of the standards are published.
  - v. The development of the API Centre standards is a priority for ASB, and we are committed to meeting the 2024 deadlines to further protect our customers and enable safer alternatives to current services which rely on screen-scraping. Those deadlines are also enforceable through the terms of API Centre membership.
  - vi. By committing to specific timelines and obligations, participating banks have already demonstrated their willingness to be held accountable for those open banking initiatives. The applicable deadlines ensure timely progress without the need for external regulation.
- f. We note the Commission’s concern in the Paper that banks may “cease membership” of the API Centre in the future. There has been no indication of this and we do not consider it realistic (particularly in the context of the upcoming CDR reforms discussed further below).
  - g. The API Centre standards have been developed by the industry in a way which is tailored to address the specific needs and complexities of the payments sector, and the voluntary framework enables flexibility to adapt to changing technologies, customer preferences, and market dynamics more swiftly than a mandated regulatory framework under the RPSA.
  - h. For the above reasons ASB considers that there is no need to use the RPSA to mandate open APIs. Rather, we believe the Commission’s regulatory powers would be better utilised by providing further regulatory guidance to API Centre participants to enable greater collaboration (and we welcome the related comments in the Paper regarding increased regulatory engagement).

*Increased competition is already occurring (without the need for mandatory open APIs)*

- i. While ASB is a large bank in the New Zealand market we face increasing competitive pressure from global technology companies like Apple and new short-term financing options such as Buy Now Pay Later (**BNPL**), which is proving to be popular with merchants. Many new entrants to the New Zealand market are large international corporates with greater economies of scale than local fintechs or New Zealand banks which allows them to invest more heavily in innovation, better ensuring its success. For example, global technology companies have a much larger customer base than local fintechs or New Zealand banks. This gives them more data to work with, which they can use to develop better open banking products and services. In addition, technology companies have already invested heavily in the technology infrastructure needed to support open banking. This includes developing APIs, building security systems, and creating compliance programs. As a result of these factors, global technology companies are already well-positioned to play a significant role in the open banking market in New Zealand (without the need for mandatory open APIs under the RPSA).

- j. In addition, ASB is aware of approximately 250 fintechs in the New Zealand market who have registered their interest with the API Centre to use industry standardised APIs to connect to banks in an open banking arrangement. It is unclear how many payment solutions merchants might be prepared to accept, or that the small New Zealand market could realistically sustain.

*Mandatory open APIs won't remove challenges for innovators in the New Zealand market*

- k. ASB is aware of the success digital players have had overseas. For example:
  - i. Various technologies are evolving into “account to account” payment services. Overseas, Venmo began as a P2P player but it can now be used for point of sale P2B transactions.
  - ii. Global player Revolut (an online non-bank account provider with over 30 million users) recently launched in New Zealand and is expected to introduce open banking features.
- l. Similar initiatives in New Zealand may not necessarily grow as quickly. While New Zealanders have tended to show a strong appetite for embracing digital banking solutions<sup>4</sup>, the pace of customer adoption is tied to the pace at which retailers are prepared to invest in and adopt new technologies. New Zealand consumers are also slow to switch from existing payment methods unless the transition is seamless and necessary or offers a superior experience to existing methods such as tap-and-go, and merchants are unlikely to invest in new payment methods if there is not strong evidence of consumer utilisation. A good example of accelerated merchant and consumer uptake is the rapid rise of contactless payments during the Covid-19 pandemic, as it was touted as the safest way to pay to avoid infection.
- m. We do not consider that RPSA designations will solve these challenges. We don't believe the exercise of those powers is necessary nor will be effective in enabling an environment where new entrants can launch successful innovative new options to make bank transfers in New Zealand.

*Designation under the RPSA will add further regulatory complexity*

- n. The proposed RPSA designation would add further complexity to the layers of regulatory obligations to which banks are already subject.
- o. As ASB has explained in the context of its response to the Commission's market study into personal banking services, we have invested significant time and resource on various regulatory projects. That includes significant projects to address, among others:
  - i. compliance with BS11;
  - ii. changes to the CCCFA;
  - iii. FSLAA;

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Refer to ASB's submission in response to the Commission's preliminary issues paper, dated 7 September 2023 - [comcom.govt.nz/data/assets/pdf\\_file/0019/329032/ASB-Submission-on-Market-study-into-personal-banking-services-Preliminary-Issues-paper-7-September-2023.pdf](https://comcom.govt.nz/data/assets/pdf_file/0019/329032/ASB-Submission-on-Market-study-into-personal-banking-services-Preliminary-Issues-paper-7-September-2023.pdf)

- iv. the Initial Pricing Standard under the RPSA;
  - v. CoFI;
  - vi. the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021; and
  - vii. the draft Customer and Product Data Bill.
- p. ASB also needs to keep up to date with international technology best practice requirements and global regulations such as ISO20022 which creates a common language for payments data globally, as well as the European Union General Data Protection Regulation.
  - q. ASB's systems are highly integrated and interdependent, meaning that changes to one system can have effects on other systems. As a result, there is a limit to the amount of change that can be safely implemented in ASB's systems at any one time.

#### **4. Designation of the interbank network would be premature in advance of the proposed CDR**

##### *Importance of customer privacy and security protections*

- a. At ASB, customer privacy and security is paramount. The industry has seen an explosion of financial crime over the past 12 months and we have invested significantly in growing our internal capability to detect and prevent frauds and scams. ASB is now able to stop approximately 92% of unauthorised frauds before they occur. It is therefore critical for ASB that any open banking regulations are subject to appropriate privacy and consumer protection safeguards (including accreditation obligations for third party services who access customer data to facilitate payments or provide other services) to ensure that they do not increase the risk of fraud and cybercrime.
- b. The Commission will have seen the increase in the number of sophisticated frauds and scams affecting consumers in New Zealand and elsewhere. To suitably protect consumer data from fraud and scams and to mitigate the risk of privacy breaches or unauthorised access, it is critical to ensure that robust data security standards apply for all third parties who access bank account data (whether to facilitate payments or otherwise). As the Paper notes, in other payment regimes, "payment providers often have to be accredited by a regulator before they can access the APIs."
- c. Similarly, ASB considers that any mandatory standards regarding open APIs should only occur as part of a well-designed CDR framework (including appropriate accreditation standards for third party service providers). While the CDR Bill remains in development and is at an early stage, it recognises the need to ensure that access to bank accounts for the purposes of providing services to customers must occur in a way which suitably reduces the risk of fraud and customer harm.
- d. ASB considers that there should be public sector and industry alignment on the roadmap for delivering CDR, open banking and payment systems modernisation preceded by a simple and accessible digital identity framework. That will help develop consumer trust and promote wider uptake of open banking than we have seen in overseas jurisdictions. Appropriately sequencing the regulatory changes is critical to maximising the long-term interests of New Zealand consumers. International experience suggests that trying to build



in the necessary resilience after the initial implementation is slow and impractical. Data security and safeguarding against fraud and scams must be embedded in the wider regulatory framework from the outset.

- e. ASB recommends the roadmap for the regulation of the New Zealand payments system evolves as follows (in order of priority):
  - i. compliance with existing domestic regulations and guidance (and any applicable international regulations);
  - ii. providing new innovative payments solutions, with built-in consumer protection against frauds and scams, within a safe, simple and easy to access digital identity framework; and
  - iii. implementing open banking through a well-designed CDR framework which suitably protects customer privacy.

#### *Regulatory sequencing*

- f. The Paper states that because the Commission is “uncertain” when the CDR will be established, the Commission considers that its powers under the RPSA can be used to *“require the banks to provide access to the necessary systems ahead of the CDR going live.”* That appears to suggest that the proposals in the Paper are intended to accelerate and even shortcut the longer and more cautious process required to introduce primary legislation.
- g. ASB queries whether it is appropriate for the Commission to use its regulatory powers to recommend designations and standards under the RPSA where directly related draft legislation is already in development (and subject to the appropriate scrutiny and debate that the Parliamentary process involves). There is also a risk that introducing new obligations via secondary legislation, where substantively similar matters are being considered in the context of primary legislation under the CDR Bill may result in inconsistent frameworks.

**Appendix 2: ASB responses to Submission Response Template**

<p><b>1</b></p>	<p><b>Do you agree that EFTPOS card use is likely to continue to decline? If not, why not?</b></p> <p>Data over the past 16 months shows that eftpos transactions (magnetic stripe and contact scheme debit) are no longer declining against contactless transactions.</p> <p>ASB continues to collaborate with Worldline on an instore trial of contactless debit using a virtual eftpos card linked to their Online Eftpos solution.</p>
<p><b>2</b></p>	<p><b>Do you agree with our assessment of the factors contributing to the decline in EFTPOS card use? If not, why not?</b></p> <p>We consider that there will remain a preference by issuers and consumers for scheme cards, which offer greater utility and consumer protection. Scheme cards have richer features and functionality, such as rewards programmes, and can be used online as well as for travel internationally given their global reach.</p> <p>Scheme cards are also safer to use and rely on chip and pin technology, whereas EFTPOS relies on magnetic stripes which are more vulnerable to “skimming” (collection of data using devices installed on card readers). Chip cards also include additional cryptographic security features, making them harder to counterfeit, and also generate unique codes for each transaction.</p>
<p><b>3</b></p>	<p><b>What do you see as the barriers to innovation and success for EFTPOS?</b></p> <p>We do not consider there are any barriers to innovation for EFTPOS, although we do acknowledge that it is difficult to invest in innovation if there is no commercial model. As noted above, the schemes have greater economies of scale to invest in innovation to an extent that EFTPOS would struggle to compete with. Additionally, the need to conform to global standards means that innovation in EFTPOS is likely to follow a similar path to scheme products.</p>
<p><b>4</b></p>	<p><b>Do you agree with our view that the decline in EFTPOS card use is reducing the competitive pressure on the debit card networks for in-person payments and that this may have a detrimental impact on consumers and merchants over time? If not, why not?</b></p> <p>EFTPOS continues to provide competition and offers a low-cost model for merchants, although as noted above consumer preferences have driven the increased use of scheme products (which have offered increased functionality due to innovation by schemes).</p> <p>We expect the competitive pressure on debit card networks for in-person payments will remain given new API-based account-to-account payment options (offering innovation and differentiation based on additional overlay services).</p>
<p><b>5</b></p>	<p><b>Do you agree with our view that competitive pressure in the payments between bank accounts landscape could be increased by enabling an environment where payment providers develop innovative options to make bank transfers? If not, why not?</b></p> <p>To successfully compete with scheme card payments, bank transfer service providers will need to offer innovative ways to incentivise consumers and merchants to use the new alternatives (such as loyalty, extended time for clearing and settling payments, account proxies and confirmations of payee/payer, guarantees and a clear liability framework).</p>
<p><b>Questions on the key features of traditional bank transfers</b></p>	
<p><b>6</b></p>	<p><b>Do you agree that we have captured the existing benefits and problems with the traditional method of initiating bank transfers? If not, what other benefits or problems exist?</b></p>

	<p>As a general comment, the benefits and challenges summarised in tables 3.1 and 3.2 appear to be based on bank transfers as they operate today. We consider that further innovation and development of overlay services to enable interbank payments will alleviate many of the problems identified.</p> <p>In addition, while indirect costs of bank transfers may include delayed sales due to delayed payments, cancelled sales due to delayed payments, and lost goods due to sales made without a successful payment, such costs could potentially be reduced by the development of new features as mentioned in response to question 5 above.</p> <p>In relation to the potential benefit of faster settlements, we note that SBI settlement is available only during interchange hours, which reduces the certainty of payments if made after hours. In addition, the time for settlement to occur during interchange hours reduces certainty of payments. These uncertainties will potentially limit any benefits of settlement for merchants.</p> <p>In addition, while account to account bank transfers initiated through bank channels currently incur low or no fees as stated in table 3.1, where such payments are facilitated via payment providers with additional features, it is likely that merchants or consumers may be charged fees for those services.</p>
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#### Questions on methods to gain access to the interbank payment network

<b>7</b>	<p><b>Do you agree with how we have described and ranked the different methods for payment providers to access the interbank payment network to initiate payments? If not, why?</b></p> <p>ASB agrees with the Commission’s description. However, network access methods should include proprietary APIs (as well as bespoke APIs).</p> <p>We also consider that “<i>Standardised open APIs required under a CDR or open banking regime</i>” and “<i>Standardised open APIs</i>” are fundamentally equivalent (particularly where the industry develops common partnering standards and default terms for the use of API services).</p>
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<b>8</b>	<p><b>Are there other key features of the payment initiation network access methods you would like to draw to our attention?</b></p> <p>ASB is investing heavily in educating our customers to protect themselves from fraud and scams. This is one our key priorities. One of the key messages we issue to customers is to never share banking credentials with anyone, not even the bank. Screen scraping undermines this message and, in ASB’s view, is at least indirectly contributing to New Zealanders being scammed into providing account access to fraudsters by creating confusion around safe practices.</p> <p>For that reason, any regulatory intervention by the Commission should be focussed on ensuring government, public sector and industry alignment on the roadmap for delivering a safe and secure CDR and open banking framework, and that payments modernisation should be preceded by an aligned, simple and accessible digital identity framework. That will help develop consumer trust and promote wider uptake of open banking than we have seen in overseas jurisdictions, while combatting rising frauds and scams.</p>
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#### Questions on the environment required to support innovation in options to make bank transfers

<b>9</b>	<p><b>Do you agree that these API related requirements are sufficient to enable an environment where payment providers can develop innovative options to make bank transfers? If not, why?</b></p> <p>ASB agrees that the listed API requirements are necessary to enable an environment to support innovation. However, without more, they are insufficient. To ensure the successful uptake of innovative solutions and ongoing integrity of the environment, the requirements need to be</p>
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	<p>supported by consumer safeguards and clear redress frameworks to provide consumers and merchants with confidence to use these new payment methods.</p> <p>We further consider there needs to be a partnership between central and local governments, public agencies and the payments sector, for public services to lead the way on using open banking and new payments solutions, to promote consumer awareness and trust.</p>
<b>Questions on the benefits from a more competitive and efficient interbank payment network</b>	
<b>10</b>	<p><b>Do you agree with our view of the long-term benefits to merchants and consumers from the development of innovative options to make bank transfers? If not, why?</b></p> <p>We agree that open APIs could increase the availability of bank transfers for use as retail payments, provided solutions are developed with the additional functionality referred to above. However, the cost of use will not necessarily be reduced because of new direct costs and inherent indirect costs. To reduce inherent indirect costs, new capability needs to be developed to improve the efficiency and reduce any time delays of bank transfers.</p> <p>We agree that ease of use would be improved by implementing guidelines for customer experience (as published in the API Centre Open Banking CX Guidelines). In addition, the development of an industry account proxy capability would reduce the need to enter account numbers. The development of an industry “confirmation of payee” service may be another way to help protect customers from account fraud.</p> <p>Note that scheme card payments offer consumer protection via a chargeback regime that is not available for bank transfers. To match this feature, new guarantees and liability frameworks would need to be developed.</p>
<b>Questions on industry open API standards</b>	
<b>11</b>	<p><b>Do you consider that the existing industry open API standards are a good starting point to enable innovative options to make bank transfers?</b></p> <p>ASB considers that the API Centre Open Banking API standards and frameworks are the best approach for enabling innovative options to make bank transfers. Those standards are based on benchmarks that are well-used and proven elsewhere.</p> <p>As noted in Appendix 1, the API Centre is well-advanced in its work to design and support New Zealand’s open banking future, and that industry-led process is likely to be more effective, flexible, fit for purpose, and cost-effective than a mandatory regulatory regime.</p> <p>The further development of these standards (which is necessarily iterative) should be undertaken by industry. Introducing a distinction between regulated and non-regulated API standards will create unnecessary complexity. (This is illustrated by the UK experience, where the minimum baseline set of regulated API standards have been implemented by a majority of banks, creating uncertainty for the role or value of developments for non-regulated APIs).</p>
<b>12</b>	<p><b>Do you consider the future of industry open API standards will enable innovative options to make bank transfers?</b></p> <p>Yes. As a collaboration between API providers (banks) and API users (fintechs and others), the API Centre is developing a future roadmap of standards based specifically on evolving market demand. Furthermore, the API Centre is developing the supporting frameworks and ecosystem required to foster longer-term success.</p>
<b>13</b>	<p><b>What gaps are there in the open API standards for innovative options to make bank transfers?</b></p> <p>The API Centre is currently working with the Commerce Commission to seek authorisation to collaborate with market participants to establish an accreditation framework for third parties and</p>

	<p>standardised terms for third party access to APIs. This will form part of the design of the CDR framework.</p>
<b>Questions on the key barriers preventing efficient access to the interbank payment network</b>	
<p><b>14</b></p>	<p><b>Do you agree that the key barrier preventing payment providers from gaining efficient access to the interbank payment network is that the banks have not universally built open APIs? If not, why?</b></p> <p>We do not consider there is a single “key barrier.” Various factors need to align to enable a new API-enabled pay-by-bank network accessible by payment providers. Among other things, this will also depend on standardised accreditation for third party providers (as well as implementing the industry API delivery plan).</p> <p>As noted in Appendix 1, regulating for mandatory open APIs will not remove the existing challenges for innovators in the New Zealand market. Payments innovations have not proven successful to date for a number of reasons, including resistance from merchants to adopt new hardware/technology, lack of industry alignment or collaboration (in part due to competition constraints), lack of bargaining power with global technology firms and lack of customer need.</p>
<p><b>15</b></p>	<p><b>Do you agree that the main reason the banks have not universally built open APIs is due to the uncertainty of commercial incentives for them to do so? If not, why?</b></p> <p>ASB does not agree that uncertainty of commercial incentives is the main reason the banks have not universally built open APIs.</p> <p>Bank systems are complex and different banks are at different stages of their internal modernisation programs, of which API development is one component.</p> <p>API delivery has also been impacted by capacity constraints. Over recent years, banks have had to prioritise multiple regulatory and payment compliance initiatives. That has included work to consider a negative interest rate environment, various legal reforms (see Appendix 1), moving to ISO20022 (phase 1) in April 2023; adopting SBI365 in May 2023; compliance with BS11; and moving to ISO20022 (phase 2) by 2025.</p> <p>Over the last five years over a third of ASB’s project spend has been directed to regulatory and compliance projects, requiring a re-prioritisation away from strategic investments.</p> <p>ASB recommends that government agencies and regulatory bodies collaborate closely moving forwards to align regulatory change programmes and effective dates to account for the finite delivery resources available in the New Zealand market at any given time.</p>
<p><b>16</b></p>	<p><b>Do you consider that the industry implementation plan creates sufficient certainty that the banks will build the open APIs? And do you consider that the minimum delivery dates are appropriate? If not, why?</b></p> <p>Yes. The industry implementation plan creates an agreed timeline for the initial delivery and ensures visibility for stakeholders. Banks are bound by the implementation plan and need to request a formal exemption for any delay in meeting the mandatory dates. The minimum open banking implementation plan therefore provides certainty for participants, as well as for third party service providers.</p> <p>The minimum dates for delivery of v2.1 standards were determined following an extensive review, and appropriately reflect the importance of the standards (as well as the time reasonably required by banks to meet those timeframes in a way which delivers an effective framework and avoids unintended consequences).</p>

17	<p><b>Aside from the network access issues, are there other issues with the interbank payment network that reduce competition or efficiency? For example, the speed of payments or amount of information attached to payments?</b></p> <p>The inherent limitations of interbank payments will limit the competitiveness of such services relative to incumbent card services (EFTPOS, scheme cards). New features are needed for interbank payments to increase competitiveness for retail use (including request-to-pay services, confirmation of payee services, account proxies, and overlay services for retail payment use cases).</p>
<p><b>Questions on efficient partnering between banks and payment providers</b></p>	
18	<p><b>What do you consider are the main barriers to negotiating agreements between banks and payment providers for access to the interbank payment network (assuming open APIs are built)?</b></p> <p>Standardised accreditation and bilateral contracts will significantly simplify payment providers' access to the interbank payment network using open APIs. The Commerce Commission is aware that Payments NZ is seeking authorisation to progress this work.</p> <p>Another barrier at the moment is the availability of insurance cover for API users. ASB understands that API users are currently limited to one insurance provider based in the UK.</p>
19	<p><b>Does the API Centre's partnering project enable efficient partnering between banks and payment providers? If not, what would be required to enable efficient partnering?</b></p> <p>Progress has been made to enable efficient partnering between banks and payment providers. There is work to do to via the partnering project to finalise a common bilateral agreement and accreditation service that all parties can commit to using.</p>
<p><b>Questions on the interbank payment network</b></p>	
20	<p><b>Do you agree with how we have defined the interbank payment network? If not, how do you consider it should be defined?</b></p> <p>ASB generally agrees with the definition at paragraphs 5.13 and 5.14 of the Paper.</p> <p>As for paragraphs 5.17 and 5.18, we agree that the SBI system and BECS form part of the interbank payment network. However, we note that SBI and BECS are used extensively by many more industry sectors than retail.</p>
21	<p><b>Do you see any issues with how we have defined the interbank payment network? If so, what issues?</b></p> <p>Retail payments are a small fraction of SBI volumes. The payments that flow via the network are not categorised by industry sector and there is no plan to do so.</p> <p>Therefore, if the proposed definition implies designation of all participants and activities covered by the network, such designation would be too broad. Alternatively, if the intent is designation of retail payments, such designation of payments for use within a particular sector would be a significant challenge.</p>
22	<p><b>Do you agree we have captured the correct payment products in the interbank payment network?</b></p> <p>Yes, but please refer to comments above.</p>
23	<p><b>Do you agree we have captured the correct network operators of the interbank payment network?</b></p> <p>Yes, but please refer to comments above.</p>

24	<p><b>Do you agree we have captured the correct class of participants in the interbank payment network?</b></p> <p>Yes.</p>
25	<p><b>Do you agree we have identified the relevant interbank payment network rules? If not, what other network rules are relevant?</b></p> <p>We do not consider that the SBI or BECS rules should be included in the designated network rules. The network rules for SBI and BECS apply to all payments processed by all users and classes of participants, with only a small fraction relating to retail payments. In addition, these rules do not apply specifically to the provision of open banking APIs.</p> <p>We also note that while the API standards would apply to the access by payment providers, the purpose of the API standards is broader than the provision of payments for retail. Therefore the relevance is considerably wider than retail payments and cannot be constrained for sole use under the retail scenario.</p>
26	<p><b>Do you consider there are any other regulatory requirements in other New Zealand laws that we should take into account in deciding whether to recommend that the interbank payment network is designated?</b></p> <p>The Council of Financial Regulators recently outlined a vision for the New Zealand payments landscape and highlighted the range of current activities across their work programmes that contribute to that payments vision. ASB recommends the Commerce Commission take account of the value those ongoing activities when deciding whether the use of powers under the RPSA are necessary in this context.</p> <p>In addition, in considering any designation under the RPSA, it is imperative that such designations align with existing regulatory frameworks to ensure consistency and to avoid regulatory duplication. Specifically, any designations should align with the proposed CDR framework, as well as any privacy laws (as amended by the CDR reforms) and the Digital Identity Services Trust Framework Act 2023.</p> <p>Furthermore, any RSPA designations should align with the requirements outlined in the Fair Trading Act (FTA). For example, any “fairness” requirements regarding access terms should be consistent with existing Unfair Contract Terms requirements under the FTA.</p> <p>Finally, a safe, trustworthy and simple digital ID service (drawing on the Digital Identity Trust Framework) would facilitate quicker switching between banks, improving trust and enabling stronger take up of open banking services. As part of this, the removal of the requirement for address verification for AML/CFT purposes would remove much of the friction experienced by New Zealanders in opening bank accounts or switching banks.</p>
<p><b>Questions on possible regulatory interventions</b></p>	
27	<p><b>Do you consider that a designation of the interbank payment network is a useful first step towards enabling an environment where payment providers can launch innovative new options to make bank transfers in New Zealand? If not, why?</b></p> <p>ASB agrees with the objective of introducing certainty as to the delivery of APIs and enabling innovative new retail payment options. However, for the reasons outlined above, we do not consider that designating the payment network and/or the API standards is necessary, or even helpful to achieving those objectives.</p>
28	<p><b>How effective do you consider our regulatory powers would be at addressing the barriers set out in this paper?</b></p>

	<p>We do not consider that designation of the interbank payment network under the RPSA is necessary for the reasons outlined above. The barriers identified in the Paper can be better addressed through the voluntary industry-led efforts of the API Centre. In particular, increased transparency of the API implementation plan will provide certainty in the industry.</p> <p>In addition, the proposed pricing standards and limits on access fees are unnecessary and inappropriate: open APIs are being developed for many more use cases beyond just retail payments. The scope of API use is therefore not aligned with the concept of limiting fees for retail API access. In addition, it is possible that fees will be charged by third parties to merchants and/or consumers. Consideration would need to be given to effectiveness of regulation on such fees for retail payments, in addition to fees between banks and third parties. Relatedly, the total cost to a bank of servicing API connectivity would include variable and fixed components, which would vary widely between the type of API services, the type of third party use cases, volumes, and the support levels offered by the banks. Flexibility in pricing models better suits innovation objectives.</p>
29	<p><b>Do you consider that a designation of the interbank payment network, and the subsequent use of our regulatory powers, would promote competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand? If not, why?</b></p> <p>ASB considers that long-term competition and efficiency in the retail payment system will predominantly come from industry-led work on modernisation, coupled with digital identity initiatives and development of the open banking API ecosystem. The Commerce Commission has a role to play in ensuring industry planning is appropriate and is delivered to ensure competition and efficiency goals are met. However, ASB has concerns that designation under the RPSA could contribute to greater regulatory complexity, confusion, and uncertainty, risking progress without any corresponding benefit.</p>