Australian Retailers Association

National Retail ASSOCIATION

ARA/NRA SUBMISSION

ASIC CONSULTATION – PROPOSAL TO REMAKE RELIEF INSTRUMENT FOR NON-CASH PAYMENT FACILITY EXEMPTIONS

October 2025

The Australian Retailers Association (ARA) and National Retail Association (NRA) welcome the opportunity to comment on ASIC's proposal to remake *ASIC Corporations (Non-cash Payment Facilities) Instrument 2016/211*, which provides conditional relief for certain low-risk non-cash payment facilities.

The ARA and NRA, which propose to amalgamate to form the Australian Retail Council (ARC), represent a $430 billion sector, and employs 1.4 million Australians – making retail the largest private sector employer in the country and a significant contributor to the Australian economy.

Our membership spans the full spectrum of Australian retail, from family-owned small and independent retailers that make up 95% of our membership, through to our largest national and international retailers that employ thousands of Australians and support both metropolitan and regional communities every day.

With a significant portion of every dollar spent in retail flowing back to employees, suppliers, super funds, and local communities, a thriving retail sector benefits all Australians. After a uniquely challenging five-year period, which has had significant impacts on the sector, we are united in advocating for policies, reform and collaboration that will drive growth, resilience, and prosperity for the retail sector and all Australians.

We support ASIC's proposal to remake this instrument for a further five years in its current form. The instrument provides essential regulatory certainty and proportionality for low-risk non-cash payment facilities such as gift cards, loyalty programs, prepaid mobile products and toll payments. These arrangements operate effectively under the existing framework and ensure that compliance obligations remain targeted, risk-based, and commensurate with the nature of the products and the level of consumer risk involved.

The ARA and NRA note that the instrument was originally introduced to consolidate a series of class orders and provide temporary, risk-based relief pending broader reform of Australia's payments framework. The rationale for that relief remains valid, as the underlying policy settings for non-cash payment facilities are still under review.

Maintaining this relief avoids unnecessary legal and administrative burden, particularly for small and medium-sized retailers, while supporting innovation in digital payment solutions. The framework also complements consumer protections under the Australian Consumer Law, including the mandatory three-year expiry period for gift cards, ensuring strong consumer outcomes without imposing undue cost or complexity on business.

Given the broader payments reform process currently underway, it is appropriate that this relief be maintained unchanged until those reforms are settled. This approach provides stability and continuity for retailers and consumers alike.

The ARA and NRA therefore support ASIC's proposal to remake the *Corporations (Non-cash Payment Facilities) Instrument 2016/211* for a further five years in its existing form.

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National Retail Association

The ARA and NRA appreciate the opportunity to comment on this consultation and remain committed to working collaboratively with ASIC and Treasury to ensure Australia's payments framework remains proportionate, efficient, and innovation-friendly.

For any queries, please contact our Policy and Advocacy team at policy@retail.org.au.