



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

2 July 2021

Ms Jennifer Lyons
Financial Services and Wealth
Australian Securities and Investments Commission
Level 7, 120 Collins Street
Melbourne VIC 3000

via email: Jennifer.Lyons@asic.gov.au

Dear Ms Lyons

CP 341 Review of the ePayments code

We welcome the further consultation on the review of the ePayments code and offer the following comments:

1. We support the inclusion of small businesses in the Code. Including small businesses has the potential to provide them with protections against mistaken and unauthorised transactions, and critically, provide a complaints resolution mechanism.
2. We believe the extension of the Code to small businesses should not allow subscribers the option to exclude small businesses. Whilst this code could provide small businesses with much needed protections, it will be undermined when subscribers (i.e. financial institutions) elect not to extend these protections to small business customers.

In the event subscribers are permitted to exclude small business customers, the reasons for this exclusion should be published. We support ASIC's proposal to publish the terms and conditions of subscribers that opt-out of the extension, and we believe that including the subscriber's reason for opting out will encourage subscribers to remain 'opted in'.

3. We continue to support mandating compliance with the ePayments Code. We welcome the announcement from the Assistant Minister for Superannuation, Financial Services and Financial Technology that Treasury will develop a reform package from the recommendations of the Council of Financial Regulators' review¹. These recommendations include providing ASIC the authority to enforce Code compliance. A mandatory code would strengthen protections for small businesses and should be progressed.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact _____ on _____ or at _____.

Yours sincerely

The Hon. Bruce Billson
Australian Small Business and Family Enterprise Ombudsman

¹ 'Supporting competition and innovation in payment services', media release, 6 November 2020