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Ms Zoe Cox
Senior Manager, Policy
Australian Prudential Regulation Authority
GPO Box 9836
Sydney NSW 2001



Via email: Zoe.Cox@apra.gov.au

CPS 230: Preliminary Non-traditional Service Provider List

Dear Ms Cox,

The Australian Financial Markets Association (**AFMA**) appreciates the opportunity to provide feedback on the preliminary non-traditional service provider (**NTSP**) list. We also appreciate the Australian Prudential Regulation Authority's (**APRA**) consideration of the requirements of industry under CPS 230 Operational Risk Management (**CPS 230**) and we look forward to participating in the upcoming consultation on targeted amendments.

Sensible modifications to CPS 230 should aim to modify or remove those aspects that industry cannot comply with, and to reduce the burden on both regulated and non-regulated entities.

Key findings and recommendations

Industry will not be able to comply with certain aspects of CPS 230, as they are currently written. This is due to, for example, barriers and power imbalances when dealing with global monopoly providers, and relationships with service providers for which there are no service level agreements (**SLAs**). AFMA continues to encourage APRA to modify these unachievable requirements.

We provide the following comments and, in Appendix A, suggested additions to the preliminary list of NTSPs for APRA's consideration.

NTSPs should be identified by 'type' rather than vendor

It will be difficult to identify all current NTSPs across banking, insurance and superannuation. Additionally, any such list(s) will become outdated as new providers emerge. As such, AFMA encourages APRA to identify NTSPs by type to provide industry with the flexibility to apply any modified expectations to new NTSPs as they emerge.

AFMA is supportive of APRA identifying example NTSPs. Importantly, any list(s) of example NTSPs should be presented as being *non-exhaustive*. By clearly presenting the list(s) as non-exhaustive, APRA will avoid the list(s) becoming outdated, as highlighted above.

Additionally, some vendors listed in Appendix A will not be considered Material Service Providers (**MSPs**) by all regulated entities. This could be due to, for example, steps taken by a regulated entity to reduce its reliance on a particular service or particular provider. The articulation of list(s) as being

non-exhaustive would also reduce the perception that listed vendors are expected to be considered NTSPs and/or MSPs. This importantly includes the perceptions of external consultants and auditors.

NTSPs should be defined broadly

AFMA encourages APRA to apply a broad definition of NTSPs. A broader approach to NTSPs could include for example, utility providers, such as telecommunication providers. Consideration should also be given to if core technology providers also fit within the concept of NTSPs for CPS 230. Such an approach would reduce the ‘spread’ of regulatory burden to non-regulated entities, without diminishing the overarching goals of CPS 230.

Getting the balance right on CPS 230

Preparation for and implementation of CPS 230 has created a significant regulatory burden on regulated entities. By the standard’s design, this burden has spread to non-regulated entities, for example, those that provide critical services to regulated entities.

The consultation on targeted amendments to CPS 230 is an opportunity to reassess the right balance between safety and regulatory burden. It is also an opportunity to remove those requirements with which industry is unable to comply.

In many cases, regulated entities have no choice but to engage NTSPs, despite not having stipulated performance SLAs and/or experiencing material power imbalances which impact their ability to negotiate. In these situations, it can be impossible for a regulated entity to, for example, negotiate changes to SLAs that comply with the requirements under CPS 230 regarding MSPs. Modifying or removing these requirements would avoid industry being non-compliant due to the standard’s design, despite all reasonable efforts being made.

Furthermore, in some cases, the requirements under CPS 230 overlap or duplicate existing powers and obligations. These include the ability of APRA to conduct on-site visits at APRA regulated entities, or broader requirements on critical infrastructure from government, such as those required under the *Securities of Critical Infrastructure Act 2018 (SOCI Act)*. Putting greater reliance on existing powers and requirements would reduce the overall regulatory burden. AFMA notes that a number of NTSPs, categorised as financial market infrastructure providers, are in scope of the SOCI Act, including the strict standards on operational resilience and business continuity management.

In this context, requirements that AFMA encourages APRA to review in its upcoming consultation include:

- the need to maintain a formal legally binding agreement: CPS 230, paragraph 54 – potentially aligning to the concept of ‘outsourcing’, such as in CPS 230, paragraph 60;
- the need to include a *force majeure* provision: CPS 230, paragraph 54(f);
- formal agreement provisions: CPS 230, paragraph 55;
- the need to identify and manage fourth parties: CPS 230, paragraph 48(c); and,
- monitoring and reporting: CPS 230, paragraph 58(a) and (b).

Again, we look forward to participating in the upcoming consultation on targeted amendments and are available to provide further detail on any of the matters raised in this letter. For more information or if you have questions in relation to this letter, please do not hesitate to contact me at brendonh@afma.com.au or on 0411 281 562.

Regards,



Brendon Harper
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About AFMA and its members

The Australian Financial Markets Association is the peak industry body for Australia's financial markets industry – including the capital, credit, derivatives, foreign exchange, and other specialist markets. AFMA represents more than 130 industry participants from Australian and international banks, superannuation funds, leading brokers, securities companies, and government treasury corporations to asset managers, energy firms, carbon market participants, and industry service providers.

AFMA promotes efficiency, integrity, and professionalism in Australia's financial markets enabling the markets to continue to support the Australian economy, high skilled job markets and the energy transition.

Appendix A: Preliminary NTSP List

AFMA provides the following suggestions to APRA's preliminary NTSP list. In some instances, the services of an identified provider have been listed for removal of doubt on its inclusion, for example, the inclusion of RITS for the RBA.

Type	Providers
Government agencies and regulators (including Central Banks)	<ul style="list-style-type: none">APRAASICRBA, e.g. RITSFEDRBNZServices AustraliaDepartment of Finance
ADIs and Correspondent Banks (for provision of correspondent banking and liquidity services, including custody, nostro account, securities depository and similar services)	<ul style="list-style-type: none">Domestic ADIs, e.g. ANZ TransactiveInternationally domiciled and/or incorporated correspondent banks (Deutsche Bank, HSBC, JP Morgan).
Stock exchanges	<ul style="list-style-type: none">Australian Securities Exchange (Clear and Settlement, including ASX24 and CHESS)London Stock ExchangeLCH (London Clearing House)ASX Clear (including Austraclear)CME Clearing (Chicago Mercantile exchange)
Central clearing counterparty (CCP), trade clearing services & custodians	<ul style="list-style-type: none">EurexSuperChoiceNZ ClearCboeDTCC (The Depository Trust Company and National Securities Clearing Corp)

	<ul style="list-style-type: none"> • SWIFT • CLS • PEXA • CHIPS (US Clearing House Interbank Payments System)
Settlement platforms	<ul style="list-style-type: none"> • EuroClear • ClearStream • FinClear Pty Ltd • FNZ (SYN~) • Murex
Payment Schemes	<ul style="list-style-type: none"> • Australian Payments Plus ('AP+'), including the NPP • VISA • MasterCard • AmericanExpress • AusPayNet (APN)
Energy/ Telcommunications¹	<ul style="list-style-type: none"> • Electricity providers (e.g. Origin Energy, SmartestEnergy Australia etc) • Telephony / internet providers (e.g. Optus, Telstra, TPG etc)
Industry Bodies/ Associations	<ul style="list-style-type: none"> • NZFMA²
Licensed Insurers	<ul style="list-style-type: none"> • APRA regulated insurers
Others	<ul style="list-style-type: none"> • State-based CTP/Workers Compensation regulators (GI) • HICAPS (PHI) • Yieldbroker/Tradeweb • Bloomberg • LSEG/Refinitiv • WorkSafe Victoria • iCare • Building management firms/office landlord

¹ Similar to ASIC class waiver.

² Provides real-time benchmark rates under an industry standard data agreement.