



07 May 2019

eConveyancing Review
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop NSW 1240
By email: Jennifer_Vincent@ipart.nsw.gov.au

Dear Sir/Madam

Review of the pricing framework for electronic conveyancing services in NSW – Issues paper

The Australian Banking Association (**ABA**) welcomes the opportunity to comment on the Independent Pricing and Regulatory Tribunal (**IPART**) Review of the pricing framework for electronic conveyancing services in NSW Issues Paper (**Issues Paper**).

The ABA understands that the Review is being conducted within the context of the partial mandating of eConveyancing in NSW from 1 July 2019. We agree that the implications of the removal of paper conveyancing as a source of competition in the market needs to be monitored and assessed. However, we note that developments in the NSW market should not be assessed in isolation from the important work underway to implement a national eConveyancing platform.

The ABA has consulted closely on related issues both with the Intergovernmental Agreement (IGA) Reviewer and the NSW Government, this year. We attach copies of recent submissions to these entities.

An important overarching theme from the perspective of ABA members is that of a nationally consistent approach to eConveyancing generally, and to issues around Electronic Lodgment Network Operators (ELNOs), including pricing and competition, in particular. This theme is explored in detail in the attached submissions.

In our view, this theme of national consistency is something to which IPART should have regard in conducting its review. Formulating findings or recommendations on the kinds of issues outlined in the terms of reference for this review should consider how any NSW approach to these issues sits with a nationally consistent framework for eConveyancing regulation.

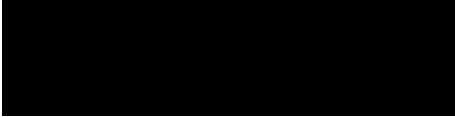
State-based variations within the national framework are likely to add to the costs and risks of participants in the eConveyancing system. This would include variations in approaches to pricing regulation. Most of our members, as with many other financial institutions, operate nationally. Where there are differences by state, maintaining varying processes for different jurisdictions increases operational risks and costs. Our members estimate that state-based variations to eConveyancing adds around 10 to 15 percent to their costs.

The ABA looks forward to participating further in the Review, and providing more detailed comment on particular issues, following the release of the draft report in July.




Australian Banking
Association

Yours faithfully



Jerome Davidson
Policy Director


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01 March 2019

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Dear Sir

Directions Paper on proposed eConveyancing interoperability regime

Thank you for the opportunity to provide feedback on the Directions Paper on the proposed eConveyancing interoperability regime ('Directions Paper').

Key Points

This submission makes the following key points:

1. ABA Members would welcome the establishment of a competitive market for Electronic Lodgement Network Operators (ELNOs) provided it can be shown this will result in better cost and service outcomes for consumers. Members also agree with the view that an effective system for true interoperability (interoperability for all participants) is essential for a market that has two or more ELNOs.
2. The timeline set by the NSW Government for establishing a regulatory framework for mandating Electronic Lodgement Network (ELN) interoperability leaves insufficient time for:
 - a. stakeholders to properly consider proposals and participate meaningfully in the development of the framework;
 - b. if necessary, for ABA members to implement systems and controls to ensure a secure multi-Electronic Lodgement Network Operator (ELNO) environment; and
 - c. the involvement of other jurisdictions and the Australian Registrars' National Electronic Conveyancing Council (ARNECC) in the development of an appropriate model for interoperability between ELNs.
3. ABA members encourage the NSW Government to revise the timeline in a way that will:
 - a. allow for the views of the Review of the Intergovernmental Agreement for an Electronic Conveyancing National Law to be considered by stakeholders, and the NSW Government, in the development of the NSW model;
 - b. increase the likelihood of active participation in this process by ARNECC and the other jurisdictions, leading to the likelihood of more consensus around the appropriate model; and
 - c. allow enough time for stakeholder feedback and contribution to the design to be provided, and properly considered prior to the mandating of interoperability in NSW.
4. The current interoperability design and timeline could result in millions of dollars in increased costs as the banks will need to create and maintain payment gateways to each ELNO and build



them in record time. Testing will be rushed, resulting in many significant “use cases” not being thoroughly tested before the system becomes operational, with the likely result of larger numbers of delayed settlements and the possibility of increased fraud and incorrect settlements. Many settlements will also need to default to paper at the last minute if we learn that a settlement type is not possible in an interoperable environment under the design.

Overview

ABA Members would welcome the establishment of a competitive market for Electronic Lodgement ELNOs provided it can be shown this will result in better cost and service outcomes for consumers. Members also agree with the view that an effective system for interoperability is essential for a market that has two or more ELNOs.

A competitive ELNO market is likely to increase market resilience and, as the ACCC has noted, interoperability could be an effective lever to ensure benefits of competition are realised, while simultaneously mitigating potential adverse implications such as market fragmentation and increased operational costs for participants.

While recognising the potential benefits to the community of a competitive ELNO market, there are however, complex issues, risks and costs associated with transitioning from the current single-ELNO market.

ABA members acknowledge that the NSW Government, along with other stakeholders, recognise these risks, and is making attempts to address them. However, for the reasons outlined below, ABA members are concerned that NSW, in striving to achieve a competitive ELNO market (and interoperability) ahead of or soon after the mandating of electronic conveyancing in its jurisdiction from 1 July 2019, may leave too little time to establish an environment where the risks associated with the move to competition among ELNOs are outweighed by the benefits.

ABA members consider that the advent of a competitive market for ELNOs in Australian jurisdictions should be driven by a set of key themes. These are outlined below:

- **National consistency** – an approach that fosters, to the greatest extent possible, a uniform regulatory approach among all Australian jurisdictions.
- **Cost efficiency** – reducing the costs of land transactions and thereby benefitting customers and other stakeholders.
- **Security and confidence** – maintaining the integrity of the conveyancing system and minimising risks of fraud etc; and
- **Clarity on adjudication** – clear rules around liability in the event of loss.

These matters are to some extent inter-connected, in that failing to achieve one will detrimentally impact the others. We will deal with each of these matters in turn below, but we note again that these matters are unlikely to be satisfactorily dealt with in the absence of a realistic timeframe for implementation and for consultation with relevant stakeholders.

Timeline for implementation of interoperability in NSW

The ABA endeavours, in this submission to the Directions Paper, to provide helpful comments. However, *this submission does not purport to provide a comprehensive response to all the issues outlined in the Directions Paper*. It is simply not possible, in the compressed timeframe allowed, to provide a comprehensive view on the series of complex issues outlined in around 70 pages of material in the Directions Paper.

We note the reasons behind the urgency with which the NSW Government is proceeding are based on perceptions of potential poor outcomes for consumers and entrenchment of the existing monopoly (i.e. PEXA):



“A significant delay in introducing interoperability in NSW after the transition to mandatory eConveyancing to allow for a national solution could result in poor outcomes for competition and consumers. As well as the constraints on consumer choice outlined above, the phasing out of paper-based conveyancing would remove a discipline on any market power of the existing ELNO before the new ELNOs had the opportunity to enter and establish themselves in the market.”¹

The approach is not, however, weighed against the risks to consumers of a rushed approach. These risks are at least twofold:

- 1) The risk that the regulatory approach will not be secure, cost effective, and underpinned by an appropriate system for allocation of liability.
 - Failure here would undermine confidence in the system and would likely have significant reputational impacts for all industry participants including the State Government.
- 2) The risk that major participants, such as ABA members, will not have enough time to put systems in place to facilitate the new regime.
 - Typically, design, build and testing of a system like this is more than nine months. Experience shows that, without enough time for these processes, functionality often fails. Failure would undermine the confidence in the system, result in more settlements on paper and potentially mean increases in fraud and delayed settlements for consumers.

In addition, a subscriber base, not mandates, is the driver of significant network effects which are a justifiable driver for interoperability. One hundred per cent of financial institutions and more than ninety per cent of the NSW practitioner market are already subscribers in PEXA. To adequately create customer choice and competition, the rollout of an interoperability solution must be of high quality.

As context, the banking industry took more than 2 years to be functional on PEXA for both settlement and payments. The rollout approach by many banks was a stepped approach, focusing on standalone and transfers. Likewise, rollout of NPP was a multi-year project to ensure appropriate time for standards and testing.

Greg Johnston of the RBA noted in the session that “use cases”, particularly in regard to the lodging ELNO, need to be adequately addressed. Without sufficient time for this step, the likelihood of delayed settlement or failed payments increases. A preferred approach would be to start with establishing standards for a variety of “use cases” (e.g., 4-party, 2-party, standalone transactions for single, sequential and simultaneous settlements) across the two existing ELNOs.

We concur with the view expressed in the IGA issues paper:

“We do not believe that any decision to adopt an interoperability model should be made until the risks, liabilities and costs are properly identified and agreed between the ELNOs and the governments.”

National Consistency

The Directions Paper recognises the importance of national consistency in the eConveyancing framework and goes to some lengths to outline a process for the potential adoption of a national model. However, the intent here seems to be that NSW will first develop and mandate its model in isolation, and then, that model, with the benefit of lessons learned in this State, can feed into the development of a national model.

While that may be a possible outcome, ABA members consider that a more seamless rollout of interoperability across ARNECC jurisdictions is more likely to be achieved if ARNECC jurisdictions are fully engaged in the process of development of any model adopted for NSW.

¹ Directions Paper, p. 9



The Directions Paper outlines a concern that the introduction of interoperability in NSW would be unduly delayed if it had to wait for the introduction of interoperability across ARNECC jurisdictions:

“The challenge the Government has is the review report will not be handed to Ministers until around May 2019, and the process of agreeing to, and implementing, recommendations and the regulatory processes, can be anticipated to take some further time—should all States agree to proceed with interoperability at that point. This longer time risks the consumer benefits to NSW.”²

Involving ARNECC in this process would not, however, necessarily have this result. While a co-ordinated rollout of interoperability would be an admirable goal, that is not what is being suggested here. Rather, the objective is to establish a process whereby consensus could be achieved on a national model prior to its rollout in NSW. This would increase the likelihood of national consistency being maintained as interoperability was adopted in other jurisdictions and lessen the likelihood of significant differences emerging in systems as they are rolled out. We note that this view is shared by ARNECC, whose recent letter to Minister Dominello stated:

“The current focus by the NSW Government on interoperability, without consideration of the broader market and alternatives, is unlikely to deliver a solution that can be adopted nationally. As a signatory to the IGA, the intentions to collaborate and provide nationally consistent regulatory and legislative outcomes in relation to electronic conveyancing should be forefront.”³

Similarly, the ACCC noted, in its letter of 13 February 2019, that:

“The ACCC considers that in the long term it may be preferable for there to be consistency in the application of interoperability mechanisms across the industry nationally, for greater efficiency and to avoid duplication of processes.”⁴

Having a nationally consistent model agreed upfront provides greater certainty for industry participants around committing to the necessary investments to support the changes. Investments may relate to capital investments in systems and processes, but also relate to investments of the time of key resources (eg. payments experts) in working with other industry participants to define and agree workable industry solutions. If this effort and investment is likely to be duplicated for every jurisdiction, a commitment may be difficult to secure.

The risks of inconsistency for ABA members are very real. Most of our members, as with many other financial institutions, operate nationally. A solution which differs by state is more complex and less robust. For example:

- One major bank reports that 10% of its business bank electronic settlements are multi-jurisdictional. With consistency across states, settlement can be conducted electronically. Without consistency, settlement *must* be paper-based. For business customers, this translates to more costs and increased complexity.
- Likewise, banks' operational teams and technology teams are national, not state-based. Where there are differences by state, maintaining varying processes for different jurisdictions increases operational risks and costs, including the likelihood of consumers being impacted through missed settlements. Moving to a new house is a major life event for most people, and the incidence of any failures result in reputational impacts for all industry participants, including banks, practitioners, and land registries. State variation adds around 10 - 15% in costs. Higher degrees of consistency mitigate this.

For these reasons, ABA members maintain that the issue of national consistency cannot be separated from the costs, security, and liability issues, because a lack of national consistency could adversely affect some, or all of these.

² Directions Paper, p. 9

³ ARNECC letter to The Hon. Victor Dominello, 11 February 2019, p. 2

⁴ ACCC letter to Jeremy Cox, 13 February 2019.



Again, our members believe the process of developing solutions for ELNO competition and interoperability should involve all ARNECC jurisdictions to increase the probability that ultimately, a national model can be built.

The IGA review issues paper is now in the public domain and is another forum in which to canvass these issues, with the final report of the review due before the end of this financial year. In our view this provides an opportunity for the kind of involvement by ARNECC we'd like to see the NSW process adopt.

Cost efficiency and complexity

It is not clear that the proposed environment will definitively result in reduced costs and complexity for consumers. If the proposed model results in duplication of existing infrastructure, or a complex new environment in a central hub (eg. a "new payments" environment), it is possible that total costs of the system would increase, with the subsequent likelihood that consumers end up bearing the impact of these increased costs or complexity.

As noted above, transitioning to a multi-ELNO framework could be costly for ABA members. For example, a solution requiring new business rules and controls and, most importantly, new payment gateways or pipes, is costly. Consider payments - a common feature of both the bilateral and hub designs proposed in the Directions Paper.

E-settlement payment gateways are bespoke and not as standardised as other payment gateways. One major bank reported it had spent more than \$10m to build their e-conveyancing payment solution. The new framework could require financial institutions to build and maintain payment pipes to all operating ELNOs. If it does, the costs increase substantially and there is a likelihood that some of these costs could be passed on to the customer.

Without national design standards and "use case" details, it is probable that the system design would be different for NSW than in other states. Each instance would need design, build and testing phases. Therefore, if the interoperability system is not designed nationally and concurrently, the costs will scale with each build. And, known issues for one design may not receive enough time and resources.

Design details are needed to appropriately assess costs. Both the bilateral and hub design have the concept of a lodging ELNO that performs lodgement and financial settlement. For this to occur, the lodging ELNO needs access to the source funds from the financial institution the purchaser is using for their mortgage. Consequently, for the ELNO to be the 'lodging ELNO', that ELNO must have payment pipes to that financial institution such that the payment can execute within the 30-minute window for settlement. What occurs if the lodging ELNO needs to get source funds through a financial institution that has not built a payment gateway to that ELNO from the system that financial institution is utilising? Would that be clear by step 5 in all instances? The initial assessment is that settlement delays increase together with an increase in costs.

Security and Payments

We note the Directions Paper addresses to some extent, the issues of security. However, it is self-evident, the more people with system access, the greater the risk to security. Given the values going through e-settlements can be in the hundreds of millions in a 10-minute cycle, it is worth getting the design of the system right and testing it. One major bank outlines some questions confronting it as follows:

- In the payments domain, a new approach needs to be defined and agreed. One example of this challenge will be, defining how funds will be confirmed in real-time, prior to settlement. Today the PEXA system awaits confirmation in real-time from all banks providing funds, that funds are available in the source account before the transaction proceeds. In the multi-ELNO model, if one of the parties to the transaction is using a bank account associated with a different ELNO, it is not clear how this real-time confirmation will be achieved.



- Currently, we accept payment instructions as accurate in the eConveyancing ecosystem and process them. We do not undertake further checks. However, we synchronise our software release cycle with PEXA's releases to ensure security and periodically audit PEXA's security infrastructure. What occurs if a security release is not synchronised across ELNOs and the entire ecosystem of banking and conveyancer practice management software? The risk of an end customer's funds being appropriated increases.

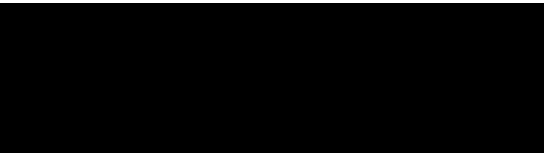
In our submission, these are important questions that need an appropriate timeframe in which to be addressed.

Adjudication / liability

As highlighted above, with a multi-ELNO environment, risk and security issues grow significantly, and the 'weakest link' or 'lowest common denominator' philosophy applies. Therefore, significant effort is required by the ORG to define the minimum standards for the network. These minimum standards will need to extend significantly beyond the existing MOR & MPR framework and needs to incorporate clear mechanisms for identifying and resolving liability for issues that may arise. It is unlikely that any insurer would be willing to participate in this domain without very specific and pre-agreed clarity on possible outcomes in every situation.

Thank you again for the opportunity to provide comments on this paper.

Yours sincerely



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10 April 2019

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Dear Ms Larkins

Review of the Intergovernmental Agreement for an Electronic Conveyancing National Law – Issues Paper

The Australian Banking Association (**ABA**) appreciates the opportunity to comment on the *Review of the Intergovernmental Agreement for an Electronic Conveyancing National Law Issues Paper (Issues Paper)* and the extension of time granted to us to make a submission.

With the active participation of its members, the ABA provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services. The ABA works with government, regulators and other stakeholders to improve public awareness and understanding of the industry's contribution to the economy and community, and to ensure Australia's banking customers continue to benefit from a stable, competitive and accessible banking industry.

The ABA welcomes the review, which provides an important opportunity to assess whether the Intergovernmental Agreement (**IGA**) has met its objectives of establishing a framework to facilitate the implementation and ongoing management of a regulatory framework for national electronic conveyancing (**eConveyancing**).

The ABA supports the important work underway to implement a national eConveyancing platform, that ultimately should seek to drive a more efficient and effective process for consumers. As a general comment, the ABA notes, that while the Issues Paper comprehensively considers the impact of eConveyancing from an industry and government perspective, greater consideration should be given to the consumer outcome. If the intent of the IGA is to establish a national system for the benefit of consumers, the focus of ongoing work should be improvements to make their experience simple, consistent and cost effective.

This submission focuses on two issues – regulatory and governance arrangements, and competition and interoperability. We note that banks have participated in other processes conducted by the Review which collected feedback on a broader set of issues, such as the survey.

The ABA's submission makes the following key points:

- A national supervisory body with sufficient authority to mandate national eConveyancing standards should be established to support a robust national governance framework. A national framework should be progressed as a matter of priority to address the risk of a fragmented approach to the implementation of eConveyancing across states and should precede initiatives to strengthen competition in the system.
- ABA members would welcome the establishment of a competitive market for Electronic Lodgement Network Operators (ELNOs) provided it can be shown this will result in better cost and service outcomes for consumers. An effective system for true interoperability



(interoperability for all participants) is essential for a market that has two or more ELNOs. A model for a multi-ELNO market should be developed at the national level.

1. Regulatory and governance arrangements

The ABA supports the development of a national regulatory and governance eConveyancing framework. The key objective of a national framework should be to deliver a simple and consistent consumer experience, which is both cost effective and operationally efficient for all participants. The ABA sees progress towards a national framework as a matter of priority to address the risk of a fragmented approach to the implementation of eConveyancing across states. This outcome would be at odds with the objective of the IGA for a nationally consistent approach to eConveyancing.

It has been the experience of our member banks that the Australian Registrars' National Electronic Conveyancing Council (ARNECC) approach to implementing a national system using guidelines has not always been effective. In particular, despite ARNECC's objective to encourage national consistency, the individual state land titles offices have implemented differing business practices such as state-based variations to National Mortgage Form documentation. State-based variations to the National Mortgage Form drives inefficiency in the eConveyancing system, and the ABA submits that a focused outcome from the IGA review should be to identify options for a standardised approach to the National Mortgage Form.

The ABA would strongly recommend a supervisory body that has the authority to mandate the standards for implementing a national eConveyancing system. Given the limitations of the existing governance arrangements, the ABA does not support the status quo as outlined in Option 1 of the issues paper. While Options 2 (a new body to advise ARNECC) and 3 (a new national regulator) may support the establishment of a national system, the ABA submits that a better approach would be the appointment of a national supervisory body rather than a regulator. A national supervisory body should have limited, but sufficient authority to mandate standards for implementation and drive the establishment of a national system. This body should also have the authority and resources to resolve efficiency and business process issues across jurisdictions.

Given the movement towards a multi-ELNO environment, and the additional complexity associated with this, strengthened national governance arrangements are essential. As outlined further in our submission, the new governance arrangements should precede initiatives to strengthen competition in the system.

In terms of the options for funding a regulator or supervisory body, the ABA submits that funding should be a joint investment from governments, state revenue offices, land titles registries and their private operators; all of which have benefited from digitisation of the system with increased efficiencies and lower costs in their transaction processing environments. We note that financial institutions have already made significant investments in eConveyancing systems and had provided seed funding for PEXA. Funding of a regulator or supervisory body should not fall on financial institutions or consumers.

2. Competition and interoperability

ABA members would welcome the establishment of a competitive market for ELNOs provided it can be shown this will result in better cost and service outcomes for consumers. However, an effective system for interoperability is essential for a market that has two or more ELNOs.

A competitive ELNO market is likely to increase market resilience and interoperability and could be an effective lever to ensure benefits of competition are realised, while simultaneously mitigating potential adverse implications such as market fragmentation and increased operational costs for participants.

While recognising the potential benefits to the community of a competitive ELNO market, there are however, complex issues, risks and costs associated with transitioning from the current single-ELNO market. It is our view that there is a need for in-depth analysis with participants to develop national interoperability options that deliver simple, consistent and cost-effective consumer outcomes. We have concerns around the development of multiple and/or complex interoperability models across jurisdictions increasing complexity, inefficiencies and costs.



While our submission does not comment on the merits of each option for competition outlined in the Issues Paper, we have identified a number of themes which require consideration to ensure a competitive market for ELNOs, and positive consumer outcomes:

- National consistency – an approach that fosters, to the greatest extent possible, a uniform regulatory approach among all Australian jurisdictions.
- Cost efficiency – reducing the costs of land transactions and thereby benefitting customers and other stakeholders.
- Security and confidence – maintaining the integrity of the conveyancing system and minimising risks of fraud etc; and
- Clarity on adjudication – clear rules around liability in the event of loss.

These matters are to some extent inter-connected, in that failing to achieve one will detrimentally impact the others, and we address each in more detail below.

2.1 National consistency

Most of our members, as with many other financial institutions, operate nationally. Any fragmentation to a national eConveyancing system will increase complexity and reduce efficiency. Member banks' operational and technology teams are national, not state-based. Where there are differences by state, maintaining varying processes for different jurisdictions increases operational risks and costs, including the likelihood of consumers being impacted through missed settlements. Moving to a new house is a major life event for most people, and the incidence of any failures result in reputational impacts for all industry participants, including banks, practitioners, and land registries. State variation adds around 10 to 15 percent in costs.

Without national design standards, it is probable that the model would be different across the states. Every different model introduced would require additional work to design, build and test. Therefore, if interoperability is not designed nationally and concurrently, the costs will scale with each build.

Having a nationally consistent model agreed upfront provides greater certainty for industry participants around committing to the necessary investments to support the changes. Investments may relate to capital investments in systems and processes, but also relates to investment in the time of key resources (e.g. payments experts) in working with other industry participants to define and agree workable industry solutions. If this effort and investment is likely to be duplicated for every jurisdiction, a commitment may be difficult to secure.

2.2 Cost efficiency and complexity

It is not clear that the proposed environment will definitively result in reduced costs and complexity for consumers. If a multi-ELNO market results in duplication of existing infrastructure, or a complex new environment in a central hub (e.g. a "new payments" environment), it is possible that the total cost of the system would increase, with the subsequent likelihood that consumers end up bearing the impact of these increased costs of complexity.

Transitioning to a multi-ELNO framework could be costly for ABA members. For example, a solution requiring new business rules and controls and, most importantly, new payment gateways or pipes, is costly. E-settlement payment gateways are bespoke and not standardised as are other payment gateways. One major bank reported spending more than \$10 million to build their eConveyancing payment solution. The new framework could require financial institutions to build and maintain payment pipes to all operating ELNOs. If it does, the costs increase substantially and there is a likelihood that some of these costs could be passed on to the consumer.

2.3 Security and Payments

Key considerations around security and payments will need to be addressed to ensure a robust multi-ELNO environment.



In a multi-ELNO environment, it is even more important that we – as an industry – develop payment standards for eConveyancing, as was originally started with the existing system. A challenge will be to define how funds will be confirmed in real-time. Today the PEXA system awaits confirmation in real-time from all banks providing funds, that funds are available in the source account before the transaction proceeds. In the multi-ELNO model, if one of the parties to the transaction is using a bank account associated with a different ELNO, it is not clear how this real-time confirmation will be achieved.

Currently, banks accept payment instructions as accurate in the eConveyancing ecosystem and process them. In a multi-ELNO environment, particularly with interoperability, there may be use cases where payment instructions should be validated before processing them. Catering for different platforms does not necessarily mean reducing them to the lowest common denominator. It means working through individual use cases to ensure appropriate processing of payments.

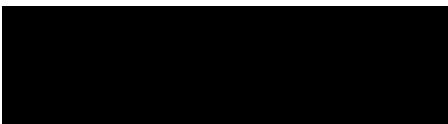
Banks may synchronise their software release cycle to ensure security protocols and functionality match an ELNO's release cycle. In a multi-ELNO, interoperable world, synchronisation of releases should be coordinated across all market participants. Otherwise, banks will need to synchronise their releases with multiple ELNOs or, alternatively, risk security breaches. Where a security release is not synchronised across ELNOs and the entire ecosystem of banking and conveyancer practice management software, the risk of an end-customer's funds being appropriated increases. In a multi-ELNO interoperable market, the supervisory body/regulator has a responsibility for security audits as no single participant can see the entire ecosystem. While in a single ELNO market, security could be audited by ELNO participants, an audit of the ecosystem would be insufficient if done only by ELNO participants.

2.4 Adjudication / liability

In order to address the heightened risk and security issues associated with a multi-ELNO environment, significant effort is required to define the minimum standards for the network. These minimum standards will need to extend significantly beyond the existing Model Operating Requirements (MOR) and Model Participation Rules (MPR) framework and needs to incorporate clear mechanisms for identifying and resolving liability for issues that may arise. It is unlikely that any insurer would be willing to participate in this domain without very specific and pre-agreed clarity on possible outcomes in every situation.

Thank you for the opportunity to make this submission. Please do not hesitate to contact us if you wish to discuss any of the matters we have raised.

Yours sincerely



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