



**ASIC**  
Australian Securities &  
Investments Commission

# **Centrepay reform consultation**

# **Submission by the Australian Securities and Investments Commission**

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## Overview

- 1 The Australian Securities and Investments Commission (ASIC) welcomes the opportunity to make a submission to Services Australia’s consultation on [Centrepay reform](#).
- 2 We note the series of questions and key areas for reform in Services Australia’s [discussion paper](#) and discuss in this submission:
  - (a) the policy intent of Centrepay and what ASIC has observed from its practical application;
  - (b) compliance, complaint mechanisms and business models of businesses that access Centrepay, including what we have observed and where we have taken action on problematic conduct;
  - (c) our insight into customers’ experiences when accessing Centrepay deductions, including the experiences of First Nations customers; and
  - (d) opportunities to reform Centrepay to better meet the needs and desires of customers in a way that is suitable and appropriate.
- 3 ASIC values its productive working relationship with Services Australia and is happy to work together to develop practical and effective solutions for the areas of reform discussed in this submission.

## ASIC’s role

- 4 ASIC is Australia’s corporate, markets, financial services and consumer credit regulator. Our vision is for a fair, strong and efficient financial system for all Australians. We realise our vision through the use of our regulatory tools to:
  - (a) change behaviours to drive good consumer and investor outcomes;
  - (b) act against misconduct to maintain trust and integrity in the financial system; and
  - (c) help Australians be in control of their financial lives.
- 5 We license and regulate people and businesses engaging in consumer credit activities (including banks, credit unions, finance companies, and mortgage and finance brokers). We ensure that licensees meet the standards—including their responsibilities to consumers—that are set out in the *National Consumer Credit Protection Act 2009* (National Credit Act).
- 6 We administer the consumer law framework for financial products and services in Australia under the *Australian Securities and Investments Commission Act 2001*. This includes prohibitions on financial firms

engaging in unconscionable, misleading or deceptive conduct and unfair contract terms.

- 7 ASIC is also responsible for administering the design and distribution obligations under the *Corporations Act 2001*. The design and distribution obligations were introduced into the financial services legislative framework to help consumers obtain appropriate financial products. The regime achieves this by imposing greater responsibility on issuers and distributors of financial products to appropriately design, target and distribute their products.
- 8 We have stated in Regulatory Guide 274 *Product design and distribution obligations* ([RG 274](#)) that an issuer should take a consumer-centric approach to product design. In doing so, the issuer should consider consumer vulnerabilities, and how those vulnerabilities may increase the risk that consumers are sold products that do not meet their objectives, financial situation and needs and will lead to poor consumer outcomes.

## A Policy intent

### Key points

We support the intent behind Centrepay’s objective outlined in its [policy and terms](#) and acknowledge the desire for the Centrepay reform process to bring the current system and operations more effectively into alignment with this objective.

We also support the areas of reform outlined in Services Australia’s discussion paper and suggest additional areas to consider in relation to Centrepay’s list of approved goods and services and deduction arrangements.

### Aligning Centrepay to its current objective

- 9            Centrepay’s current objective outlined in the [policy and terms](#) is ‘to assist customers in managing expenses that are consistent with the purpose of welfare payments, and reducing financial risk, by providing a facility to have regular deductions made from their welfare payments’.
- 10           ASIC supports the intent behind this objective and its focus on assisting consumers with managing their finances, with a particular focus on reducing financial risk. We acknowledge that the current Centrepay reform seeks to better align the current system and operations with that objective to provide further support and protections for consumers.
- 11           We suggest considering including additional elements in Centrepay’s objective such as the affordability and suitability of regular deductions. Consideration should also be given to whether expenses facilitated through Centrepay deductions should be limited to essential expenses.
- 12           ASIC notes Centrepay’s objective is based on enabling customers to self-manage essential expenses and building and supporting independence and financial empowerment. For Centrepay to meet this goal, we suggest it be administered in a manner that recognises and responds to the differing levels of access to information, resources, support, literacy and financial capability that is characteristic of Services Australia’s customers.
- 13           We also suggest that Services Australia consider how businesses use Centrepay in order to realise Centrepay’s objective. We have observed a potential misalignment between the existing Centrepay policy and terms and the practices of some Centrepay businesses.
- 14           For example, the current [policy and terms](#) expressly prohibit businesses from claiming deductions for high-cost but low-value goods. Our experience is

that the use of general terms—such as ‘high-cost but low-value goods’—results in some businesses exploiting this restriction until challenged, as further explored in paragraph 24. It may be preferable for Services Australia to consider and develop specific and more detailed restrictions or obligations that provide greater certainty to Services Australia and the businesses that seek to use Centrepay.

- 15 Section 2.1 of the discussion paper sets out several areas that the Centrepay policy reform will address. We support reform in those areas. As the reform process develops, we encourage Services Australia to test reform proposals with Centrepay users and their representatives. ASIC is happy to provide comments on reform proposals through the process.

## Reviewing approved goods and services

- 16 ASIC notes the current categories of goods and services that Centrepay deductions can be used for, and that accommodation and utilities make up the greatest proportion of Centrepay deductions (by value).
- 17 In response to the questions posed in the discussion paper on the current categories and what goods and services to exclude from Centrepay deductions, we consider it beneficial to establish criteria for including or excluding goods and services from the Centrepay-approved list. These criteria could be used to inform Services Australia whether the goods and services:
- (a) are based on the original policy intent of Centrepay—namely to budget for essential services; or
  - (b) create, give rise to or exacerbate financial hardship and stress.
- 18 Based on the above criteria, and in response to the question posed on whether any goods should be excluded from the Centrepay-approved goods and services, we note the need to consider whether to remove or restrict access for consumer lease providers covered by the National Credit Act and continue excluding high-cost, low-value goods. We also note some business models that rely on Centrepay to access priority payments in paragraphs 89–92.
- 19 Specific rules about which categories of approved goods and services can be paid for by Centrepay has the potential to provide clarity for businesses and simplify compliance processes.

## Consumer leases

- 20 ASIC has taken significant action against consumer lease providers and companies purporting to offer consumer leases since the regulation of credit transferred to the Commonwealth in 2010. Since the introduction of the

consumer lease reforms on 12 June 2023 in Schedule 4 to the *Financial Sector Reform Act 2022*, ASIC has reviewed compliance by consumer lease providers with their obligations.

21 While the review remains on foot, we are aware that there are around 125 consumer leasing businesses, with Centrepay deductions per fortnight of around \$3 million.

22 ASIC has been working closely with Services Australia to monitor the level of Centrepay customers on consumer leases for household goods. We have observed a 39% reduction in the overall dollar value of deductions of consumer leases on Centrepay since the reforms. The aggregate number of instructions across the consumer cohort has also reduced by 33% (sourced from Services Australia data from 10 June 2023 to 26 April 2024).

23 Despite the positive changes resulting from the most recent law reform, our position is that products like consumer leases should be excluded from Centrepay or have restrictions imposed, because:

- (a) consumers who are eligible to use Centrepay generally have limited disposable income and may at times be financially vulnerable;
- (b) eligible consumers often access or are targeted by multiple high-cost credit products—including small amount credit contracts, consumer leases and buy now pay later products—and the risk of consumers being overcommitted by a consumer lease is high;
- (c) many consumers have cheaper alternatives to consumer leases for accessing household goods through No Interest Loans Schemes;
- (d) having Centrepay deductions for consumer leases as priority payments from limited disposable income sources increases the risk of consumers finding themselves trapped in a cycle of increasing debt; and
- (e) a high rate of Centrepay deductions—including those by consumer lease providers—limits a consumer’s disposable income and their ability to purchase food or other necessities.

Note: See ASIC’s submission to the [review of small amount credit contracts](#) in June 2016 and Report 447 *Cost of consumer leases for household goods* ([REP 447](#)).

24 Examples of ASIC enforcement action against consumer lease providers (some of which remain approved businesses on the Centrepay register) and companies purporting to offer consumer leases (but which ASIC submits offer a sale of goods by instalment) include the following:

- (a) In November 2016, ASIC cancelled the Australian credit licence of Rent To Own Appliances following concerns about them exceeding interest rate caps. In response, Rent To Own Appliances agreed to stop collecting payments on all current contracts and allowed consumers to keep the goods. Rent To Own Appliances also agreed to maintain its

membership with an external dispute resolution scheme—the Credit and Investments Ombudsman—for at least 12 months after its credit licence was cancelled: see Media Release ([16-403MR](#)) *ASIC cancels credit licence of Rent To Own Appliances* (23 November 2016).

- (b) In January 2018, ASIC entered into an enforceable undertaking with Thorn Australia regarding its consumer leasing businesses Radio Rental, RR and Rentlo Reinvented. The enforceable undertaking covered a range of concerns for ‘affected consumers’ (as defined in that undertaking), including that in certain circumstances, Thorn Australia waive its rights to require the affected consumers to return the goods under the lease: see Media Release ([18-017MR](#)) *ASIC acts against Thorn’s Radio Rentals and secures multi million customer refunds for poor appliance rental outcomes* (23 January 2018).
- (c) In addition to issuing three infringement notices, in November 2018, ASIC entered into a court enforceable undertaking with Local Appliance Rentals requiring it to remediate affected customers, appoint an independent compliance consultant and pay a community benefit payment of \$100,000 to The Smith Family. Clause 3.9 provided that ‘specified consumers’ (as defined in that undertaking) whose leases were cancelled could retain the goods leased: Media Release ([18-337MR](#)) *Local Appliance Rentals to remediate customers and pays \$257,500* (8 November 2018).
- (d) ASIC has pending action against Rent4Keeps Pty Ltd and Darranda Pty Ltd in which we allege that consumers are being entered into contracts to avoid consumer protections and charged well above the market price for everyday goods. A hearing was held in March 2024; ASIC is currently awaiting judgment: Media Release ([22-090MR](#)) *ASIC sues Rent4Keeps and Layaway Depot for alleged breaches of Credit Act* (12 April 2022).

25 Consumers who access Centrepay often use consumer leases to obtain household goods. Even though a consumer lease does not include a contractual right or obligation to purchase the item, the provider will often allow the consumer to keep the leased good at the end of a contract, often for a nominal amount. This makes a consumer lease similar to a credit contract under which a consumer would buy the goods through a loan.

26 Financial products such as credit cards, short term loan repayments and debt collection are currently excluded from businesses that access Centrepay. Consumer lease providers with access to priority payments through Centrepay deductions have a secure and steady source of income and a very low risk of default by these customers. The higher price for finance is simply not justified in these circumstances.



## Deduction arrangements

- 27 Centrepay’s objective is to assist consumers in managing their expenses and budget more effectively. Therefore, as a general principle, Centrepay deductions should not make a consumer’s financial situation more precarious.
- 28 ASIC’s view is that Centrepay deductions should be:
- (a) suitable for each individual;
  - (b) affordable, because if they are too high, the impact can be financially significant; and
  - (c) fully disclosed and explained, in light of the consumer’s individual circumstances.
- 29 Centrepay currently offers ongoing deductions, deductions with target amounts and deductions with end dates. In reports made to ASIC through our stakeholder engagement, ongoing deductions (also known as indefinite deductions) and deductions with high total target amounts have caused consumer harm. These types of deductions are more likely to be unsuitable or unaffordable than deductions with end dates or affordable target amounts.

### Suitability of deductions

- 30 Whether a Centrepay deduction is suitable should be based on whether it meets the consumer’s needs—that is, does the deduction pay for an essential good or service and is it limited to the goods that the consumer intended to purchase?
- 31 ASIC has received complaints that suggest indefinite payments are frequently unsuitable. For example, we have received complaints that consumer lease providers have entered into consumer leases for a specified term, but the consumer lease provider has asked consumers to complete a Centrepay deduction form with no end date. This creates a risk for the consumer that the business will continue to access deductions even after the lease has been paid.
- 32 Given the risks that indefinite payments pose to consumers, we encourage Services Australia to consider whether they remain appropriate or whether it may be appropriate to introduce limits that might help minimise the risks.
- 33 ASIC has also received information regarding stores in regional and remote locations establishing high target amounts for Centrepay deductions and encouraging customers to spend as much as possible. For example, we have received complaints that a business asked customers for their Centrelink reference number. It would then advise the customer of their spending limit for the store and pressure them to spend up to that amount—that is, to buy goods based on what the business believes they will be able to recover

through Centrepay deductions rather than what the customer can afford to buy, given their other expenses.

34 We have also received reports of stores advising customers that they can build up a credit for use in that store. This creates a very low financial risk for the business, but a high financial risk for the consumer who may need to use the income that is foregone through Centrepay deductions for other goods or services.

35 We encourage Services Australia to consider the merits of restrictions on Centrepay access for businesses employing the practices mentioned above. We also encourage Services Australia to ensure that there are clear, transparent and actionable compliance measures for Centrepay-approved businesses that cause harm to consumers through unsuitable Centrepay deductions. This is discussed further in Section C and Section D.

### **Affordability of deductions**

36 One of the main issues brought to ASIC's attention regarding Centrepay is that some consumers find themselves in financial hardship where Centrepay deductions are set for amounts that they cannot afford.

37 Consumers on low incomes have minimal or no capacity for discretionary spending—excessive deductions can have a substantial impact on these consumers. We have observed significant levels of harm to consumers that could have been avoided if there were stricter controls on the deduction amounts. This may also reduce financial stress resulting from outcomes such as:

- (a) consumers incurring unnecessary fees on their bank accounts (particularly overdraft or direct debit reversal fees) due to other financial commitments that cannot be processed after Centrepay deductions reduce the consumer's bank balance;
- (b) dependency on emergency relief or community aid for essentials when Centrepay deductions have dramatically decreased discretionary income;
- (c) increased financial exclusion; and
- (d) stress, anxiety and other negative physical and mental health outcomes.

38 These adverse consequences could be addressed through:

- (a) caps on deduction amounts for certain categories of goods and services;
- (b) caps on the total amount that can be committed through Centrepay;
- (c) stricter assessment processes for businesses that apply to use Centrepay—particularly in the household category; and
- (d) additional compliance activities targeting high-cost, low-value goods being paid for through Centrepay deductions.

39 ASIC suggests that where a business is aware that a customer’s situation has changed significantly—for example, family separation, a change of address resulting in increased rent, a decrease in income or an increase in the number of dependents—or where they may otherwise be at risk of experiencing hardship, businesses should be required to check whether the customer’s deductions are suitable and affordable. It may also be appropriate to require a business to refer the customer to a local financial counsellor, financial capability worker or emergency relief provider in situations of financial hardship.

### **Full disclosure and explanation of deductions**

40 ASIC has heard from a range of stakeholders—including consumer advocates and financial counsellors—that some consumers who access Centrepay do not understand how it works. We understand that, in these circumstances, the business will often complete the deduction form on behalf of the consumer.

41 Financial counselling agencies have told us of situations where a consumer will present with financial hardship but be unaware and unable to explain the cause of their hardship. On further investigation, financial counsellors find that the consumer has unaffordable Centrepay deductions.

42 In one example reported to ASIC, a Centrepay deduction was increased from \$60 to \$100 per fortnight. The business did not explain this change to the consumer, who had low levels of literacy. The consumer also did not understand that the \$100 deduction would be for an indefinite period.

43 Access to clear and accessible information in simple language about existing Centrepay deductions, who they are being paid to, the period they are being paid over and what purchases those deductions relate to would likely assist consumers to better manage their Centrepay deductions. This would not be a complete solution but would provide greater alignment to Centrepay’s objective and principle of empowering consumers with money management tools.

44 ASIC notes these disclosure improvements could also be complemented by monitoring by Services Australia to identify high-risk businesses and cohorts of consumers and develop appropriate responses.

## B Customer experience

### Key points

Any reforms to enhance the customer's experience of Centrepay should consider the importance of Centrepay in First Nations communities, and issues around access to Centrepay for these consumers.

There are also opportunities to improve the Centrepay complaints handling process so that it is accessible and easy for consumers to engage with in a way that accounts for their unique cultural, geographical, linguistic and social circumstances.

### Accessing Centrepay

45 Centrepay was established in 1998 to provide consumers in the First Nations housing sector with a rent deduction scheme. It was first trialled in 22 First Nations communities in the Northern Territory and Western Australia. Centrepay was also initially used for utility, water and telecommunications bills before being extended to the current approved categories.

46 From the outset, First Nations communities have been a key market for Centrepay, and therefore, it is imperative that Centrepay be sensitive and responsive to the needs and desires of First Nations peoples. We note the *Report of the independent review of Centrepay* (2013 report) recorded that approximately 15% of Centrepay customers identified as First Nations peoples in 2012.

Note: A Buduls, [Report of the independent review of Centrepay \[PDF 1,602 KB\]](#), report to the Secretary of the Department of Human Services, Australian Government, June 2013, p 13.

47 As at 31 March 2023, 5 million Australians received income support payments, equating to 24% of the population aged 16 and over: see [Income and income support](#) on the Australian Institute of Health and Welfare website. The main source of income for many consumers accessing Centrepay is income support payments. ASIC notes that these low-income consumers may not otherwise have access to mainstream credit, and therefore are at significant risk of hardship if Centrepay is used to purchase non-essential household goods and services that the consumer cannot afford to pay for.

### Barriers to accessing Centrepay

48 ASIC launched our [Indigenous Financial Services Framework](#) in February 2023. The Framework outlines Key Learnings relating to First Nations

peoples' access to and engagement with the Australian financial system. These have been tested and confirmed by First Nations consumers and communities as important concepts to be acknowledged and understood in order to drive positive change.

49 The Framework recognises that there is incredible cultural diversity within and across First Nations communities. This includes unique governance structures, economies, trade relations and knowledge and management systems. However, there are also commonalities across First Nations cultures in relation to how money and financial decisions are managed. These unique circumstances and cultural nuances impact the capacity and way in which First Nations peoples access Centrepay.

50 We agree with the following observation in the 2013 report:

Given the relative overweighting of Indigenous and remote area residents' usage of Centrepay, special attention needs to be paid to ensuring that the unique characteristics of these populations in terms of culture, language and literacy levels are catered for in Centrepay operational practices and policy setting.

#### **Cultural approaches to money**

51 Cultural obligations can require, or communities can have a tendency of encouraging, the sharing of financial and other resources based on kinship obligations and cultural principles. This may result in one individual establishing Centrepay arrangements on behalf of multiple family members to make their purchases.

52 The Department of Human Services (DHS)—which was previously responsible for the Centrepay system—rejected recommendations that consumers should not be able to commit their entire Centrelink income through Centrepay deductions. DHS suggested at the time that Centrepay may be a convenient way for some people to divide their expenses among a household.

Note: Refer to comments by Mr Gavin Matthews in front of the Economics References Committee at the inquiry into credit and financial services targeted at Australians at risk of financial hardship on 24 January 2019.

53 ASIC suggests reconsidering this position, given that Services Australia notes that less than 1% of Centrepay customers have authorised deductions greater than 80% of their Centrelink payment: see p 7 of the [discussion paper](#). We also suggest that consumers, including First Nations consumers, be invited to provide feedback on whether high Centrepay deductions are assisting them to manage their financial risk.

### Language and English literacy

- 54 As many as 167 First Nations languages are spoken at home—the most widely spoken language groups being Arnhem Land languages and Daly River region languages. In 2021, the proportion of Aboriginal and Torres Strait Islander people who spoke a traditional language at home in the Northern Territory was 58.5%: see [Language statistics for Aboriginal and Torres Strait Islander peoples](#) on the Australian Bureau of Statistics (ABS) website.
- 55 The technical wording of Centrepay engagement channels and documents often have no equivalent terms in First Nations languages. This language difference affects a consumer’s ability to understand concepts such as ‘deduction arrangement’, ‘target amount’ and ‘limited recourse and no fee facility’.
- 56 The 2013 report noted that, given the complexity of the deductions form:  
it is not surprising that customers need help in filling out the application. This help is often provided by the service providers themselves, who potentially do not spend much time explaining to the customer the purpose of the scheme or the fine print included in the form ... The Review was told by the Department that some 35% of Centrelink customer have some form of language or literacy issue impeding them from readily accessing or understanding documentation.
- 57 The 2013 report went on to point out that often Centrepay documentation is not clear on whether the consumer or the business is responsible for stopping or varying deductions if there is a change in circumstances.
- 58 Many responses by DHS to the 2013 report recommendations were based on increasing communication with customers in writing and rejected the recommendation to establish a dedicated Centrepay phone service. Given evidence that many of Centrepay’s customers have difficulties with written English, we suggest that Services Australia consider other communication methods and ensure that any necessary documents are clear and easy to read.

### Geographic remoteness

- 59 First Nations peoples are far more likely to live in remote and very remote areas of Australia—15.4% of First Nations people live in these areas compared with just 1.4% of the non-First Nations population: see [Estimates of Aboriginal and Torres Strait Islander Australians](#) on the ABS website.
- 60 Consumers in regional, remote and very remote areas are impacted by the lack of competition. When Centrepay-approved businesses control the market share in particular regional and remote areas, consumers are at risk of being in long-term or rolling Centrepay arrangements with these businesses. While Centrepay-approved businesses have the ability to deduct large portions of consumers’ funds in these areas, other reasonable, affordable alternatives to Centrepay may face issues competing with these businesses, as consumers have less payment options for these alternatives.

61 First Nations peoples living in remote areas are also more likely to be digitally excluded than other cohorts of consumers. This means they may be unable to access or use myGov to manage their Centrepay deductions.

62 We suggest Services Australia give particular attention to how the Centrepay system can better meet the needs of First Nations peoples, particularly those living in regional and remote areas.

### **Predatory business practices**

63 In some cases, ASIC has seen instances where social and cultural factors are exploited through Centrepay arrangements when targeting consumers. This includes remote First Nations consumers who may not speak English as a first language, individuals with low levels of financial literacy, culturally and linguistically diverse people, and consumers on low incomes who rely predominantly on Centrelink incomes.

64 ASIC's experience with the [Youpla Group Pty Ltd](#) (Youpla) illustrates the risk to consumers where Centrepay is used to support predatory business practices. When Youpla did not have access to Centrepay (between 1992 and 2001), it received about \$5 million in payments. After Youpla was approved to access Centrepay in 2001, this grew to \$169 million.

65 We note that DHS successfully removed funeral insurance as an approved Centrepay category in 2016—when approximately 6,000 First Nations consumers were paying Youpla through Centrepay. ASIC has heard and continues to hear of the ongoing trauma left in the wake of Youpla and the misconduct it was found to have engaged in.

66 We could not find any publicly available information about how Services Australia specifically supports First Nations peoples to understand and optimise their use of Centrepay. Given the history of Centrepay, it seems appropriate that any Centrepay communication and education be shaped and informed by First Nations Centrepay users and their advocates.

### **Reducing barriers to accessing Centrepay**

67 Given the many challenges with how consumers access information about Centrepay, it may be appropriate for Services Australia to consider a communication strategy to address this. To inform that strategy, it would be useful to consider:

- (a) how Centrepay arrangements affect a consumer's income and available funds;
- (b) how consumers can access, interpret and understand the requirements for their arrangement;

- (c) what consumer rights are available to consumers and how they can advocate for these, such as by requesting documents and receipts for their deductions; and
- (d) the number and nature of complaints made by Centrelink recipients or consumer groups and action Services Australia has taken as a result.

68 Businesses are currently best positioned to inform consumers of their rights about Centrepay when establishing deductions. However, they may have an interest in maximising deductions, particularly where there is minimal oversight to assess the suitability of Centrepay deductions.

69 In our experience and based on earlier reviews, some businesses do not appropriately inform consumers of their right to cancel their deductions or seek support for managing deductions when they are in financial hardship. This is particularly true for remote First Nations consumers who may be:

- (a) unaware of their ability to cancel their deductions;
- (b) unable to cancel a deduction without the support of a financial counsellor; and
- (c) more likely to be subject to predatory business models.

70 There are various initiatives that could be considered to provide appropriate, tailored and culturally sensitive education. For example, information and education programs could be provided on how Centrepay deductions affect a customer's Centrelink payment and how they can interact with the relevant government channels such as myGov to manage these deductions. These programs should account for varying levels of digital inclusion.

71 The lack of information provided to consumers on their itemised payments has contributed to significant consumer harm. The [policy and terms](#) state that businesses must provide an itemised statement of Centrepay purchases and payments when requested by a customer. We suggest automatically providing these itemised payments to customers and uploading them to the customer's Centrelink account so they can effectively manage their deduction arrangements and avoid overpayment.

72 Another means of supporting customers is through the provision of on-the-ground support and engagement. It is important that consumers using Centrepay have access to independent support that accounts for their personal circumstances. This is particularly important for remote and First Nations communities, who may face compounding experiences of digital exclusion, limited access to services and language differences.



## Centrepay complaints management process

73 There is a potential opportunity to improve public access to information on the Centrepay complaints process. We also understand that some consumer advocacy organisations have raised concerns about the adequacy of communication about the outcomes of complaints that they have made. We make some general observations of good practice in complaints handling based on this information and draw on earlier findings about the Centrepay complaints process.

74 ASIC understands that many people who experience consumer harm from Centrepay—largely through predatory or targeted business practices—are targeted because they are more likely to experience vulnerability and be poorly resourced to address misconduct. It is important that impacted consumers have simple and easily accessible means to understand their financial situation and make complaints to businesses and to Services Australia.

### Barriers to making complaints

75 In the discussion paper, Services Australia states that complaints regarding Centrepay represent a small portion of the total complaints received by the agency. This may be partly due to barriers to making complaints.

76 As with many complaints processes, the consumer is expected to first complain to the business. However, our understanding is that, unlike the internal dispute resolution framework for financial service providers, there is no consistent complaints framework for Centrepay-approved businesses. Therefore, consumers have little information and inconsistent responses from businesses and are disempowered to make and escalate complaints.

77 We continue to hear from many First Nations consumers and their advocates who are not comfortable making a complaint, either formally or informally to the business, or do not know how to do so. A framework that sets out how businesses should record and respond to complaints relating to Centrepay could provide transparency and consistency and reduce some of the barriers to making a complaint to a business.

78 The following observations made in the 2013 report may still be applicable:

The lack of ease of making a complaint is currently exacerbated by some cultural reticence to make complaints at all. For example, it was reported that many people in Indigenous communities in rural and remote areas will not complain when they are aggrieved because of the feeling of ‘shame’ about having seemingly made a mistake around a Government sponsored program, or because of not wanting to share their private business with outsiders or because of worrying about ending up in court just for having officially raised an issue. Unfortunately, it is these very cultural characteristics that have been exploited at times by less scrupulous Centrepay providers.

79 ASIC's IOP team has spoken with many First Nations consumers about their experience with Centrepay because an advocate who they trust and who has worked through some of the barriers to making a complaint has referred them to us. Developing relationships with advocates and being responsive to their feedback may improve the Centrepay system and assist in meeting its objective of reducing financial risk.

### Complaints handling process

80 Services Australia made a number of commitments to address recommendations in the 2013 report in relation to complaints handling. These included:

- (a) implementing a new assurance framework to improve risk management and compliance measures;
- (b) creating a new customer feedback tool to capture Centrepay complaints;
- (c) establishing key performance indicators for complaints handling;
- (d) including information about the complaints mechanism on each consumer's deduction statement; and
- (e) updating its website to outline the options for submitting a complaint about Centrepay, including an online complaints form, a telephone number, assisted technology, a postal address and in-person at a service centre.

81 We note that one recommendation made in the 2013 report was for Services Australia to establish a dedicated Centrepay complaints hotline, which Services Australia declined to implement.

82 Despite the changes that were implemented, we understand from stakeholder feedback that consumers and their advocates continue to have difficulties engaging with the process and obtaining a satisfactory resolution, or they are unclear of the outcome, including whether any change has been made in response to the complaint. These factors may discourage consumers and their representatives from making a complaint, and this may be contributing to the low levels of complaints.

83 Following the 2013 report, the Consumer Action Law Centre (CALC) made a complaint to the Commonwealth Ombudsman in 2019, alleging that Services Australia was failing to respond appropriately to CALC's complaints about several consumer lease companies' alleged misuse of Centrepay. Their allegation included breaches of the [policy and terms](#), whereby Services Australia continued to approve the businesses' access to Centrepay deductions as a payment method: see [complaint to Commonwealth Ombudsman media release](#) by CALC.

84 As a result, the Commonwealth Ombudsman made recommendations to Services Australia on how to improve its complaints handling process and operational guidance. Some of those recommendations may still be relevant, if they have not been implemented.

### **Opportunities to improve the complaints management process**

85 ASIC sees various opportunities for Services Australia to improve the Centrepay complaints management process. These include:

- (a) improving messaging and outreach to communities where Centrepay is widely used, to educate and inform consumers of their rights and obligations under Centrepay arrangements, including their right to make a complaint, what they can make a complaint about and what resolutions are available to them;
- (b) requiring Centrepay registered businesses to have consistent, accessible and clear internal complaints processes that explain to consumers their rights and obligations—as well as what assistance is available to them—and to provide clear timelines for responses to complaints;
- (c) providing and communicating to consumers the option to make a complaint directly to Services Australia in the first instance, rather than directly with the business, if they are not comfortable to do so;
- (d) providing clear guidance on Services Australia’s complaints process and timeframes, and communicating the outcomes of the complaints process in a clear, timely and transparent manner;
- (e) providing training and updated internal guidance to Services Australia’s staff to ensure that they are sensitive to cultural nuances, including information about matters that affect First Nations consumers and barriers encountered when making a complaint;
- (f) providing an accessible forum for consumers to obtain binding redress for overpayments or other breaches of the [policy and terms](#);
- (g) offering clear guidance on what steps Services Australia will take to audit businesses and remove them from the Centrepay system if breaches are established;
- (h) making a list of businesses that have been suspended or removed from the Centrepay system publicly available; and
- (i) ensuring that consumers retain the right to cease their Centrepay deductions in circumstances where a business has breached its Centrepay obligations and clearly communicating this right to consumers.

## C Business

### Key points

Improvements to the application and qualification process for businesses to become a Centrepay registered business are a key opportunity for reform, to reduce the number predatory businesses accessing Centrepay and drive good consumer outcomes.

Enhancing the ongoing monitoring of Centrepay registered businesses will enable Services Australia to detect and take action against high-risk business models and poor consumer outcomes. This will ensure that only business models that align with Centrepay's objective can continue to access the Centrepay system.

### Improving criteria for becoming a Centrepay registered business

- 86 The current [policy and terms](#) outline the criteria and obligations that businesses must adhere to in order to qualify as a registered Centrepay business. The Centrepay [procedural guide](#) outlines information on the practical operation of Centrepay.
- 87 We suggest that Services Australia considers options for improving both the [policy and terms](#) and the [procedural guide](#) to ensure:
- (a) a robust application and qualification process is undertaken before a business is registered to use Centrepay so the business:
    - (i) understands Centrepay's objective and adopts a consumer centric approach in establishing and maintaining its business model;
    - (ii) offers goods and services that meet the essential needs of consumers and align with Centrepay's objective; and
    - (iii) does not offer goods and services that are high cost but low value.
  - (b) there are adequate ongoing obligations and compliance processes to confirm that the practices of Centrepay registered businesses align with Centrepay's objective;
  - (c) Centrepay registered businesses have satisfactory complaints handling processes and appropriately respond to complaints; and
  - (d) Services Australia has appropriate oversight and processes to deregister or suspend businesses from Centrepay in a timely and effective manner if the business's practices are found to result in poor consumer outcomes.

88

We note that the following options could be considered:

- (a) Conduct a review of the application form for businesses to register with Centrepay, including requiring businesses to provide with the form:
  - (i) more information on the business activity to describe how the specific goods and services the business provides and wishes to use Centrepay for align with Centrepay’s objective;
  - (ii) a price list of the goods and services the business intends to use Centrepay deductions for, to allow Services Australia to confirm that the goods and services being offered do not fall under Centrepay’s category of goods, services and payment arrangements excluded for Centrepay deductions; and
  - (iii) a copy of a detailed complaints handling process consistent with the suggestions in paragraph 85.
- (b) Have Centrepay registered businesses maintain a written complaints register that records all consumer complaints, communications with the complainant and how the complaint was resolved—adapting the obligations imposed through the internal dispute resolution framework that applies to businesses that hold an Australian credit licence or Australian financial services licence.
- (c) Impose a requirement on Centrepay registered businesses to keep records and report annually to Services Australia to confirm they are meeting their obligations under the [policy and terms](#) and provide updates on any changes to the business—including changes to the price list of goods and services—through an annual compliance statement. If the business fails to complete the annual compliance statement satisfactorily, Services Australia can take compliance action (i.e. suspend or withdraw the business’s Centrepay registration) until the business satisfies the reporting requirements.
- (d) Introduce a standalone obligation that requires businesses to act in good faith in line with Centrepay’s objective, with the ability for Services Australia to suspend or deregister a business where it fails to do so.
- (e) In circumstances where a regulatory body or law enforcement agency has notified Services Australia of compliance concerns regarding a Centrepay registered business or a business that has applied to use Centrepay, and the business has failed to address or resolve the compliance concerns with the regulatory body or law enforcement agency directly, Services Australia’s default position could be to suspend or reject the application until the compliance concerns have been addressed or clarified.

## Identifying high-risk business models

- 89 A key risk for the Centrepay system is businesses with a business model that prioritises Centrepay arrangements to provide the business with a reliable stream of income. These business models rely on Centrepay deductions to minimise business risk and ensure business stability and profit. This can result in poor outcomes for consumers whereby:
- (a) consumers are sold high-cost, low-value goods and services that they would otherwise not have purchased had Centrepay not been available to them as a payment method;
  - (b) consumers find themselves financially overcommitted to businesses that do not provide essential goods or services, resulting in less disposable income for essentials and financial hardship;
  - (c) consumers are upsold on goods and services and end up with high deductions from their Centrelink payments; and
  - (d) vulnerable consumers—including First Nations consumers—are targeted by these types of businesses and may not have the financial literacy to understand that the goods and services they are being sold are poor value or that the cost is deducted from their Centrelink benefits, which will impact their regular income.
- 90 We consider that these types of business models are high risk, have a high likelihood of resulting in poor consumer outcomes and should be excluded from Centrepay services.
- 91 To assess whether a Centrepay registered business employs a high-risk business model, Services Australia could consider monitoring and assessing whether:
- (a) consumers are being sold high-cost, low-value goods and services, including whether the Centrepay registered business:
    - (i) has high-cost items on their goods and services lists; or
    - (ii) has changed the price list for goods and services, especially any significant increases in the cost of goods and services being offered to consumers;
  - (b) a Centrepay registered business relies on Centrepay deductions for profitability, noting where the business has:
    - (i) Centrepay deductions that make up a high proportion of their sales over a financial year;
    - (ii) a significant increase in total Centrepay deductions in a financial year;
    - (iii) a high proportion of their individual customers that have significant and recurring Centrepay deductions over a financial year; or

- (iv) a significant increase in Centrepay deductions with no target amount or end date;
- (c) other aspects of a Centrepay registered business may indicate high risk including where:
  - (i) consumers and their advocates have made complaints in relation to the business beyond a set threshold, including complaints directly to the business and complaints to Services Australia;
  - (ii) government agencies or law enforcement agencies have notified Services Australia of complaints or issues in relation to the business about the use of Centrepay or other compliance or general conduct issues.

92 Services Australia could also review the characteristics of businesses found to have used Centrepay in ways that caused harm and identify warning signs associated with those models to better assess new businesses. An example of such a risk indicator is the price charged for goods or services and whether it is competitive or excessive compared with other retailers.

## D Compliance

### Key points

We support a new approach to compliance processes for Centrepay to ensure that appropriate remedial action is taken when Centrepay registered businesses are not complying with their obligations and acting in good faith in line with Centrepay's objective.

Any reform of Centrepay compliance processes should be centred around transparency in obligations and clear consequences for non-compliance. The aim would be to deter businesses from poor practices and ensure that only appropriate businesses have access to Centrepay.

### Current compliance processes

- 93 We support the observation in the discussion paper that a new approach to compliance is needed.
- 94 We note that information provided by Services Australia to the Senate Community Affairs Legislation Committee indicated that, in the 2022–23 financial year, 382 compliance reviews were completed—which represents approximately 4% of the 10,205 businesses on the Centrepay register for the financial year—in which:
- (a) 187 businesses were found to be compliant;
  - (b) 31 businesses voluntarily withdrew from the program; and
  - (c) 164 businesses were found to be non-compliant—12 of these businesses failed to take remedial action and were removed from the Centrepay system.
- 95 Without understanding the basis on which those 382 businesses were selected for review, we observe that 42% appears to be a high rate of non-compliance.
- 96 We understand that any increase in the percentage of businesses subject to compliance reviews may have resource implications.

### Opportunities arising from a new approach

- 97 In our view, Services Australia could consider compliance activities when:
- (a) complaints are made about the business by a consumers or advocates;
  - (b) data suggests that the particular customer cohort of a business is more likely to experience vulnerability;



- (c) data suggests that there is a disproportionately high use of Centrepay based on the size of the business; or
- (d) a regulator has notified Services Australia of compliance action against a business.

98 We note an opportunity for Services Australia to provide businesses with clear expectations within the [policy and terms](#), including clear standard contractual terms and the consequences that will apply if a business does not meet those expectations. Section 9 of the policy and terms provides a good starting point for the standard that businesses should be held to.

99 ASIC agrees with observations in the 2013 report about the responsibility businesses take on when accessing Centrepay:

The welfare safeguarding attributes that customers and stakeholders assume Centrepay to be associated with, mean that access to it by service providers should be treated as a privilege that comes with responsibilities additional to the standard requirements under national consumer laws.

100 We note that a consequence of establishing appropriate standards for accessing and remaining on the Centrepay register could be to create clear avenues for Services Australia to assess whether a business that does not meet those standards should face restrictions or be removed from the register.

101 The standard that Services Australia sets for businesses using the Centrepay system will be different to the laws that ASIC enforces, and it is therefore appropriate that Services Australia may act on conduct regulated by ASIC even where ASIC has chosen not to take action. We acknowledge the different yet parallel roles in our oversight of the provision of credit facilities and Services Australia's administering of the Centrepay register. We hope to work collaboratively with Services Australia to ensure that those roles are carried out effectively.

## E Overpayments

### Key points

We note that a common cause of overpayments is indefinite or ongoing deduction arrangements.

We support proactive measures by businesses to inform customers when their arrangements have ended and remediate customers if there is an overpayment. A holistic approach to informing customers should be adopted in line with their circumstances, such as by using multiple communication channels.

- 102 ASIC understands an overpayment to be any amount deducted from a welfare payment in error or wrongfully, including any amount paid to a business:
- (a) that exceeds the amount of money reasonably needed to pay a future bill;
  - (b) that is more than the amount the business should have received in payment for goods or services;
  - (c) where goods and services will not be supplied to the customer; and
  - (d) not permitted under the [policy and terms](#), [procedural guide](#) or any additional terms applicable to the business, including any deduction paid to a business:
    - (i) that was not authorised by the customer; or
    - (ii) after the relevant deduction authority was cancelled or suspended.
- 103 The most common features of overpayments we observed are those that occur due to indefinite deduction arrangements or ongoing deductions specifically made to build up store credit rather than for store purchases. Examples include where a customer has not been notified by the business that the term of their arrangement has ended, where a business has not been proactive to cease the deductions, and where the customer has been induced into ongoing deductions for future unspecified purchases.
- 104 ASIC understands that Centrepay registered businesses have obligations under the policy and terms to notify Services Australia where overpayments have occurred and to actively seek to return money to customers as quickly as possible.
- 105 Allowing customers to access itemised receipts of their transactions—as noted in paragraph 71—may also assist with this issue. If the Centrepay system required businesses to align deductions with purchases or services rendered, there would be reduced opportunity for overpayment. Equally, this could provide Services Australia with better oversight of overpayments.

- 106 Under s100 of the Australian Consumer Law, customers are entitled to an itemised invoice for all purchases over \$75. Given the potential for a customer to have limited understanding of their consumer rights, Services Australia could require businesses to demonstrate compliance with this obligation by lodging receipts with Centrepay deduction forms.
- 107 Where an overpayment has been made, the priority should be for the business to reimburse the customer with interest and notify the customer of the overpayment as soon as it has been identified. If no interest accrues, then the business has less incentive to monitor and reimburse overpayments.
- 108 Consumers should also be contacted in various ways that account for their individual circumstances—for example, including a financial counsellor in correspondence when one has been involved, using multiple communication channels and considering whether tailored communication is needed to support customers such as where English is not a first language.

## F Consultation and engagement

### Key points

We welcome a transparent and consultative approach to the Centrepay review and encourage Services Australia to continue this approach—particularly with First Nations consumers and their representatives—throughout the implementation of the recommendations that arise out of this consultation.

- 109 Services Australia has recently improved consultation processes in relation to Centrepay, including by establishing the Centrepay Reform Peak Advisory Reference Group.
- 110 ASIC notes the importance of ongoing and embedded consultation as part of continuous improvement and evaluation. We encourage Services Australia to embed its current consultative engagement approach in a reformed Centrepay system.
- 111 We note the establishment of Services Australia’s Indigenous Advisory Group, comprising First Nations peoples who provide invaluable insight into the matters facing their communities and guidance on how our work can help improve the financial wellbeing of First Nations peoples. We consider these firsthand insights to be important to the success of the Centrepay reform process and ensuring positive financial outcomes for First Nations peoples and communities.

## Key terms

Term	Meaning in this document
2013 report	<i>Report of the independent review of Centrepay</i> to the Secretary of DHS, Australian Government, June 2013
ABS	Australian Bureau of Statistics
ASIC	Australian Securities and Investments Commission
CALC	Consumer Action Law Centre
<a href="#">Centrepay reform</a>	Services Australia's work to reform Centrepay
consultation	<a href="#">Consultation by Services Australia</a> on Centrepay reform
DHS	Department of Human Services—the agency previously responsible for the Centrepay system
discussion paper	<a href="#">Discussion paper</a> on Centrepay reform released by the Department of Social Services
Framework	ASIC's <a href="#">Indigenous Financial Services Framework</a>
IOP	ASIC's Indigenous Outreach Program
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
<a href="#">policy and terms</a>	Centrepay policy and terms
<a href="#">procedural guide</a>	Centrepay procedural guide for businesses
Youpla	Youpla Group (formerly Aboriginal Community Benefit Fund)