

The Payment Systems Regulator Ltd

Minutes

Meeting:	PSR Board	
Date of Meeting:	13 July 2016	
Venue:	25 The North Colonnade, Canary Wharf, London E14 5HS	
Present:	Andrew Bailey	John Griffith-Jones (Chair)
	Carole Begent	Hannah Nixon
	Amelia Fletcher	Christopher Woolard
	Noel Gordon	
In attendance:	Set out in Annex A	
Apologies:	Bradley Fried	

Quorum and Conflicts

The Meeting noted there was a quorum present and proceeded to business. The Board welcomed Andrew Bailey to his first meeting.

1 Minutes and Matters Arising

1.1 Minutes of the PSR Board meeting held on 11 May 2016

The minutes of the Board meeting held on 11 May 2016 were approved as a correct record of the meeting.

1.2 Minutes of the PSR Board meeting held on 22 June 2016

The minutes of the Board meeting held on 22 June 2016 were approved as a correct record of the meeting.

1.3 Matters arising

The Board noted the progress in respect of the matters arising from previous meetings.

2 Board Committee Reports

The Board noted that the Audit Committee had met in May and recommended the approval of the Annual Report and Accounts to the Board.

3 Report from the PSR Panel

The Board noted the report from the June PSR Panel which was widely considered by Panel members to be a very productive meeting. The Board also noted the Panel's engagement with the PSR Chair and the useful early discussion on the PSR's work programme.

4 Report from the Managing Director

The Board received and discussed the report from the Managing Director and noted the following points:

- The environment in which the PSR was operating was changing, most notably in relation to the uncertainty following the EU referendum and changes in senior leaders at key stakeholder organisations. The Board noted the potential impact on the work of the PSR following the outcome of the EU referendum, noting that the overall direction of travel for the organisation was unchanged and the short-term and longer-term impacts for the PSR would be considered more fully
- An update on the applications for designation under the Payment Accounts Regulations (PARS). The Board noted that a final decision would be released ahead of the PARS provisions in respect of designated alternative switching schemes coming into force on 18 September 2016
- Quarterly assessment of progress against the Annual Plan, noting that all planned activities were on track.

5 Specific items of business

5.1 Payment Strategy Forum

The Board discussed the Payment Strategy Forum report and early thinking around how elements of the Forum's strategy could be implemented. The Board noted the following:

- the Forum's Strategy, comprising a number of 'solutions' to the detriments identified by the broader payments community, had outlined the members' vision for the payments industry, which would be consulted on for a nine week consultation period
- There were important links between the Forum's draft Strategy and the potential remedies from the Infrastructure Market Review (IMR).
- The development of the Strategy and implementation of it were both discussed. The Board agreed with the position that implementation should be industry led as far as possible, with regulatory involvement only when necessary.
- Engagement and influence of senior industry leaders were required to ensure support and to secure intent in a time of added priorities
- The Board noted the requirement for additional work beyond the publication of the Strategy and the requirement for considering the future membership of the Forum, given the potential change in the nature of its future work.
- There were some solutions for which there was a high industry demand, such as some financial crime solutions.
- Success hinged on having a clear plan about where responsibility lies at different points in time, and what the interdependencies were. A better understanding of what the costs and benefits were would be important
- Continued stakeholder buy-in at all levels was very important

The Board asked to be kept abreast of the reaction from industry to the draft Strategy. Further discussion on the implementation of the Payment Strategy Forum's Strategy and the future role of the Forum will be held.

5.2 Indirect Access Market Review - Proposed Approach to s56/57 applications

The draft guidance was introduced and it was highlighted that the overall aim in producing guidance for the indirect access market review was to continue to promote payment systems in which payment service providers' access was not impeded more than was necessary to appropriately safeguard against the specific risks associated with supplying access.

The Board reviewed the guidance and noted the following:

- A key intention of the draft guidance was to set out the substantive test that the PSR would normally apply when assessing any applications
- The guidance proposed a substantive test for sections 56 and 57 for access to be 'proportionate, objective and risk based' when considering individual applications
- the test in PSDI/II was considered to be broadly appropriate, however, it was recognised that there were challenges in justifying the term 'non-discriminatory' in the context of a market with multiple suppliers of indirect access, none of whom has been found to have significant market power or dominance
- the draft guidance for consultation was for the assessment of sections 56 and 57 applications under FSBRA only and not complaints under any other legislation such as PSDI/II; with the intention to keep sections 56 and 57 guidance under review, and amend if necessary when Directive on Payment Services (PSDII) was implemented

The Board considered the draft guidance and following discussion agreed that the proposed substantive test in the draft guidance should be consistent with the test in PSDII – i.e. it should include 'non-discriminatory' – in light of PSDII coming into force in 2018. The Board agreed that the consultation paper should seek views on the option of an alternative test.

The Board approved the draft guidance subject to the changes above and delegated authority to Paul Smith to sign off the final versions for publication.

5.3 Infrastructure Market Review - Final report

The Board was presented with the final report of the Infrastructure Market Review, noting that the format was consistent with the approach adopted by the Competition and Markets Authority. The Board reviewed the report and noted the following:

- The intention of the report was to improve competition while ensuring that the continued resilience, integrity and viability of the core services were not put at risk
- The review formed part of wider work by the PSR to help encourage competition, innovation and increased service standards across the payments industry, with a number of interactions with other initiatives – most notably the Payments Strategy Forum

- Key findings were that there was currently no effective competition in the market for the provision of central infrastructure services for Bacs, FPS and LINK; the lack of competitive procurement exercises and the use of bespoke messaging standards are a barrier to entry; and the joint control by the four largest PSPs of both VocaLink and the operators is likely to reduce the level of competition in the market for the provision of central infrastructure services
- It was considered that the three remedies identified in the report, working together, had the potential to promote the PSR's statutory objectives. The remedies will be consulted on in November
- The PSR will continue to work closely with the Bank of England to ensure that its responsibility to maintain the stability of, and confidence in, the UK financial system was discharged

The Board reviewed the report and suggested some drafting amendments. The Board approved the final report on findings, subject to amendments, and delegated authority to Paul Smith to sign off final wording changes for publication on 28 July.

6 Papers for noting

6.1 PSR ExCo minutes

The Board noted the PSR ExCo minutes.

6.2 Forward Agenda

The Board noted the forward agenda.

7 Any Other Business

There was none.

Alana Christopher

Assistant Company Secretary

Annex A: Attendees

Alana Christopher	Assistant Company Secretary
Simon Pearce	Company Secretary
Isla Sofi	Associate, PSR – Managing Director’s Office
Louise Buckley	Head of Department, Communications and Operations
Paul Smith	Head of Department, Regulatory Strategy and Policy
David Bailey	Director of Financial Market Infrastructure, Bank of England (for item 5.3)
Dora Guzeleva	Manager, PSR (item 5.1)
Nancy Johnson	Manager, PSR (item 5.2)
Jana Mackintosh	Manager, PSR (item 5.2)
John Spicer	Manager, PSR (item 5.3)

Relevant associates, technical specialists and other staff also attended the meeting