

Specific Direction 10 (Confirmation of Payee)

Response to consultation
and decision

August 2019

In this document, we set out the feedback we received during our consultation on our proposed specific direction for implementing Confirmation of Payee, our responses and our decision on giving the specific direction.

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You can download this paper from our website:

psr.org.uk/psr-publications/policy-statements/specific-direction-10-confirmation-of-payee

Contents

1	Executive summary	4
2	The outcome of our recent consultation	6
3	Our decision on giving the direction	19
4	Equality impact assessment	29
	Annex 1	31
	Glossary	40

1 Executive summary

- 1.1** Confirmation of Payee (CoP) is a name-checking service that has been identified by the Payment Systems Regulator (PSR) and payments industry as an important tool to help prevent authorised push payment (APP) scams and accidentally misdirected payments. The service checks whether the name of the account that a payer is sending money to matches the name they have entered.
- 1.2** Our objective is to ensure that CoP is introduced in a way that significantly reduces losses from APP scams and accidentally misdirected payments. The widespread introduction of CoP in a timely and coordinated manner will achieve this.
- 1.3** In November 2018, we consulted on giving a general direction for all payment service providers (PSPs) to implement CoP. After considering the feedback to that consultation, in May 2019 we published a follow-up consultation paper on a revised approach.
- 1.4** In place of a general direction to implement CoP, we proposed giving a specific direction to the PSPs in the six largest banking groups that offer their UK account holders access to the Faster Payments Scheme (FPS) and CHAPS. The six largest are the Lloyds Group, Barclays Group, HSBC Group, Royal Bank of Scotland Group, Santander Group and Nationwide Building Society.
- 1.5** We proposed that the directed PSPs introduce CoP according to the following deadlines:
- **From 31 December 2019:** Directed PSPs must respond to CoP requests.
 - **From 31 March 2020:** Directed PSPs must send CoP requests and present responses to their customers.
- 1.6** We received 21 responses to our latest consultation. Almost all respondents supported the PSR giving a specific direction for CoP. They also provided feedback on aspects of the proposed direction. The main issues were technical and business process issues in meeting our deadlines for a few of the smaller PSPs in the relevant banking groups, technical barriers to implementing CoP for some account/payment types, and the need for clarity on the coverage of our direction.
- 1.7** We remain of the view that we need to use our powers to direct to make sure CoP is implemented and done so in a way that achieves our objective. Given the feedback from stakeholders, we have made changes to the direction we proposed in the last consultation.

- 1.8** The revised specific direction is set out in Annex 1. We are giving a direction to Bank of Scotland plc, Barclays Bank UK plc, Barclays Bank plc, HSBC Bank plc, HSBC UK Bank plc, Lloyds Bank plc, National Westminster Bank plc, Nationwide Building Society, Royal Bank of Scotland plc (except its brand Adam & Company), Santander UK plc and Ulster Bank Limited.¹ The directed PSPs must introduce CoP according to the direction as it applies to them and by the deadlines in paragraph 1.5.
- 1.9** The introduction of CoP by this group of PSPs according to our deadlines will result in widespread and coordinated coverage.
- 1.10** The direction now explicitly lists the payment and/or account types that are excluded.
- 1.11** In addition, we are not directing Cater Allen Limited (a PSP within the Santander Group) and Coutts & Co. (a PSP within the Royal Bank of Scotland Group). We are also not directing Royal Bank of Scotland plc with respect to one of its brands, Adam & Company.² This is because of technical and business process issues in implementing CoP by our deadlines and because excluding them will not materially affect the effectiveness of the direction.
- 1.12** We have also added to the direction an exceptional circumstances provision. Directed PSPs can apply to us for an exemption from the direction's obligations when they believe exceptional circumstances apply.
- 1.13** Our equality impact assessment indicates that CoP will have a positive impact. Our direction will provide significant benefits to payers and payees, including those with protected characteristics. Those benefits will substantially outweigh any negative impacts, including any that could disproportionately affect people with certain protected characteristics.
- 1.14** The rest of this document is structured as follows:
- In **Chapter 2** we set out the feedback to our recent consultation and our responses.
 - In **Chapter 3** we set out our decision on giving the direction and our assessment of its effectiveness and proportionality.
 - In **Chapter 4** we set out our equality impact assessment.
 - In **Annex 1** we provide the specific direction.

1 Bank of Scotland plc and Lloyds Bank plc are part of the Lloyds Group; Barclays Bank UK plc and Barclays Bank plc are part of the Barclays Group; HSBC Bank plc and HSBC UK Bank plc are part of the HSBC Group; National Westminster Bank plc, Royal Bank of Scotland plc and Ulster Bank Limited are part of the Royal Bank of Scotland Group; Santander UK plc is part of the Santander Group.

2 Coutts & Co. is a PSP that is part of the Royal Bank of Scotland Group. Royal Bank of Scotland plc is also a PSP within that Group. Adam & Company is not a PSP in its own right but a brand of Royal Bank of Scotland plc.

2 The outcome of our recent consultation

Our objective is to make sure CoP is introduced in a way that significantly reduces losses from APP scams and accidentally misdirected payments. In May 2019, we published a consultation paper on a proposed specific direction to implement CoP to be given to members of the six largest banking groups that offer their UK account holders access to FPS and CHAPS. In this chapter, we set out the feedback to that consultation and our responses. We present our decision on giving the direction in Chapter 3.

Background

- 2.1** CoP is an industry-agreed way of making sure that, before a payment is made, the name, sort code and account number (or other unique identifiers) that a payer enters are checked against the details of the payee held at their PSP. A CoP check is done directly between the sending and receiving PSPs. It does not go through other PSPs that may be acting as access providers to indirect PSPs. It is designed to reduce the risk of maliciously and accidentally misdirected payments.
- 2.2** The architectural design for CoP was created, consulted on and agreed by the Payments Strategy Forum. The output of the Forum's work was included in its blueprint, which it issued in December 2017. Pay.UK agreed to take over the delivery of the CoP rules and standards, in collaboration with PSPs and other relevant stakeholders.
- 2.3** Pay.UK has developed CoP rules and standards for 'phase one'. Common rules and standards are vital for CoP's functionality because the CoP services across different PSPs need to work together. Phase one covers UK-regulated account-servicing PSPs that operate in the UK and have their own unique addressable sort code. Direct participants in the interbank retail payment systems all have their own sort code. Indirect PSPs may or may not have their own sort code depending on how they are set up to receive and send payments with their PSP access provider.
- 2.4** Indirect PSPs can be agency PSPs or non-agency PSPs. Agency PSPs have their own sort code and payments can be directly addressed to the PSPs' customers, even though an indirect access provider acts as an intermediary in the process. Non-agency PSPs have an account – a Head Office Collection Account – with an access provider, and they use that account to send and receive payments (with one of the access provider's sort codes). Customers of the non-agency PSPs cannot be directly addressed using sort codes and account numbers. Examples of non-agency PSPs are building societies that use roll numbers to identify customers.

2.5 Pay.UK is still settling the scope of 'phase two' of CoP. We anticipate phase two will cover CoP checks at PSPs not in scope for phase one, including those that use Head Office Collection Accounts, and those requested by payment initiation service providers on behalf of someone using their services. The timeline for the delivery of phase two is yet to be determined as it will be influenced by the implementation of phase one and if and when the Open Banking Implementation Entity (OBIE) can make relevant changes to the Open Banking Directory.

Our consultations

2.6 In November 2018, we published a consultation paper asking stakeholders for their views on the PSR giving a general direction requiring all PSPs that use FPS and CHAPS to implement CoP.³

2.7 After considering the feedback to that consultation, in May 2019 we published a follow-up consultation paper detailing a revised approach.⁴ We proposed giving a specific direction to implement CoP to the PSPs in the six largest banking groups that offer their UK account holders access to FPS and CHAPS. Those banking groups are the Barclays Group, HSBC Group, Lloyds Group, Nationwide Building Society, Royal Bank of Scotland Group and Santander Group.

2.8 We proposed that they introduce CoP according to the following deadlines:

- **From 31 December 2019:** Directed PSPs must respond to CoP requests.
- **From 31 March 2020:** Directed PSPs must send CoP requests and present responses to their customers.

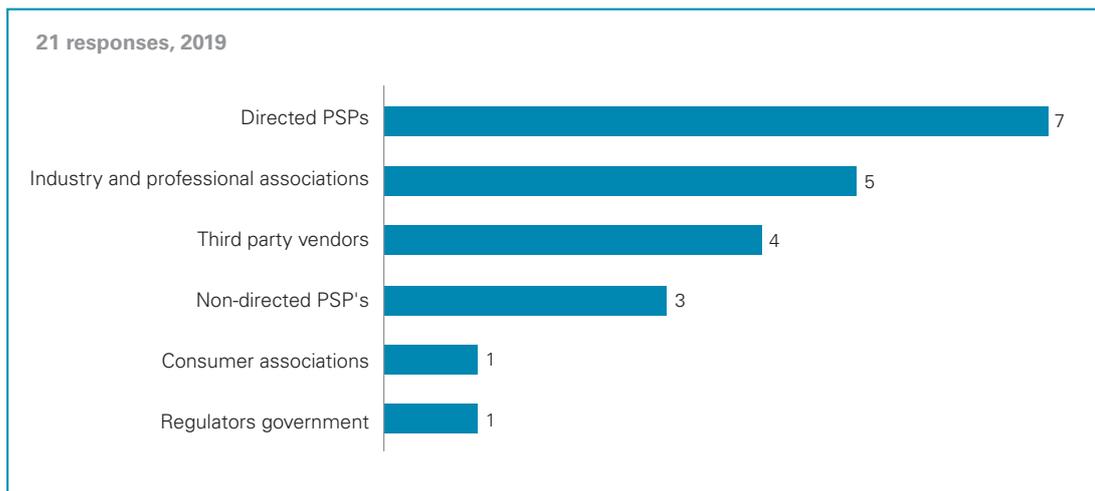
3 Under the Financial Services (Banking Reform) Act 2013 (FSBRA). Paper available at: psr.org.uk/sites/default/files/media/PDF/PSR-CP-18-4-consultation-general-directions-confirmation-of-payee.pdf

4 Paper available at: psr.org.uk/sites/default/files/media/PDF/PSR-CP-19-4-CoP-specific-direction-consultation-May-2019.pdf

Responses to our recent consultation

2.9 We received 21 responses. Respondents included PSPs, industry and professional associations, third-party vendors, consumer associations and regulators.

Figure 1: Breakdown of respondents by organisation type



Views on our draft specific direction

2.10 Nearly all respondents expressed support for us giving a specific direction. They also provided feedback on aspects of the proposed direction. We set out the feedback and our responses below.

Views on the PSPs we proposed to direct

2.11 Most respondents expressed full or qualified support for our proposal to direct the PSPs in the six largest banking groups that offer their UK account holders access to FPS and CHAPS to implement CoP.

2.12 Some respondents who supported our proposal suggested we give separate deadlines for the rest of the market. They said without deadlines non-directed PSPs may find it difficult to prioritise and obtain resources to implement CoP. A small number of respondents said we should go further and direct either all PSPs or all PSPs offering accounts in phase one to implement CoP.

- 2.13** Some of the six largest banking groups we proposed to direct said some smaller banks within their groups should be excluded from the direction. They said these banks would have difficulty meeting the proposed deadlines because of technical and business process issues, including not being on the Open Banking Directory, which is required for CoP, or being on the Directory but not having fully completed the onboarding process, or being in the middle of IT change programmes that affect their ability to deliver CoP to our deadlines.⁵
- 2.14** They also said the transaction volumes handled by these small banks are relatively low and there is a high level of customer engagement, which should help mitigate the risk of fraud. They noted that these banks have plans to implement CoP but may need more time.
- 2.15** A small number of respondents were against the proposal to direct the PSPs in the six largest banking groups. They said it may have an adverse impact on competition in the market, creating an imbalance between directed and non-directed PSPs. They said it may also result in fraud migrating to non-directed PSPs.
- 2.16** One respondent wanted clarity on whether agency banks and other indirect participants would be affected by a direction given to their access provider.

Our response

- 2.17** As we outlined in the last consultation paper, Pay.UK's CoP documentation is only available for phase one – that is, for PSPs offering accounts with a unique addressable sort code. Many smaller PSPs operate accounts that are in phase two of Pay.UK's CoP design rollout, which is currently not available. Pay.UK is developing phase two and is yet to settle the release date. Therefore, at present we cannot direct PSPs that only operate accounts outside the scope of phase one (for example, building society accounts that use roll numbers) because they are not able to implement CoP until the Pay.UK rules and standards cover the accounts they offer.
- 2.18** Of those in phase one, we proposed directing the PSPs in the six largest banking groups that offer their UK account holders access to FPS and CHAPS because they are involved in the vast majority of FPS and CHAPS transactions. We estimated that, based on 2017 and 2018 transaction data, they are involved in around 90% of FPS and CHAPS transactions as either the sending or receiving PSP.⁶ Therefore, giving the specific direction to the six largest banking groups will result in widespread and coordinated CoP coverage.

⁵ The CoP design uses the Open Banking Directory so PSPs can locate one another for CoP checks. Receiving PSPs must be on the Open Banking Directory for sending PSPs to locate them.

⁶ Transaction data provided to the PSR by FPS and CHAPS participants. We acknowledge that a proportion of the 90% estimate will involve transactions to or from PSPs that we are not proposing to direct as either a sending or receiving PSP. Data that specifies the exact sending and receiving PSPs involved in each transaction is not available. However, given the significant proportion of total transactions carried out by the directed PSPs, we expect most FPS and CHAPS transactions to occur between them.

- 2.19** Directing these groups will provide certainty that CoP is delivered in a staged, coordinated and timely way, using appropriate common standards. The staging of CoP's delivery is important. Directed PSPs must be able to respond to requests before other PSPs can send them. This is because PSPs can only send requests if they know, and can test, what other PSPs will respond with. The implementation date for responding to CoP requests therefore needs to be earlier than the date for sending them, with enough time to carry out relevant testing. Failure to achieve this is likely to significantly compromise the effectiveness of CoP.
- 2.20** Not giving a direction to smaller PSPs offering accounts in phase one does not prevent them from implementing CoP. However, it does afford them more flexibility than the directed PSPs as to when they introduce the CoP service. The smaller PSPs will likely want to give their customers the same level of protection that is on offer at the larger firms and for this reason will have a strong incentive to implement CoP as soon as they can. Indeed, we understand that several smaller PSPs are looking to deliver CoP to a similar timeline. In addition, these smaller PSPs would face additional costs and complexity if they had to deliver CoP by the deadlines in our direction. We have therefore decided not to give the direction to PSPs outside the six largest banking groups that offer phase one accounts.
- 2.21** However, we have decided to amend who within the six largest banking groups is within the scope of our direction. Specifically, we have now excluded Cater Allen Limited (part of the Santander Group), Coutts & Co. and Adam & Company (the latter two part of the Royal Bank of Scotland Group).
- 2.22** Having considered the available evidence, we have concluded that these banks face particular technical and business process issues in meeting the deadlines we are imposing under the direction (see 2.13). Imposing the direction on them would mean these banks would face additional costs if they had to deliver CoP to the deadlines in our direction. These banks also represent a low proportion of the FPS and CHAPS transactions that the six largest banking groups are involved in (less than 1%).
- 2.23** Incomplete coverage of CoP does mean there is a risk that some types of APP fraud could migrate from PSPs that offer CoP to those that do not. This will depend on several factors – for example, the existing fraud controls at smaller PSPs and the degree to which fraudsters move to other types of scams that CoP would not prevent.
- 2.24** The account coverage of the direction means a significant amount of fraud should be prevented. The coverage also means there will be a small proportion of all accounts not covered by CoP. This will make it much more difficult for fraudsters to find accounts for their scams.
- 2.25** Our direction does not apply where an indirect PSP is sending money for its customer using the services of a PSP that we are directing. A directed PSP does not have to send CoP requests on behalf of their indirect participants.

Views on the implementation deadlines

- 2.26** Most respondents expressed full or qualified support for the proposed implementation deadlines.
- 2.27** One of the PSPs we proposed to direct said the responding deadline falls within the December IT change freeze period, meaning it would have to deliver its responding capability by the end of November. It suggested pushing back the responding deadline to the end of January 2020.
- 2.28** Some PSPs suggested a phased approach to implementation according to payment type, account type (individual or business) and/or payment channel – for example, implementing CoP on digital channels first, followed by other channels.
- 2.29** Lloyds Group said CoP would be difficult to implement by the deadlines for some account types, such as corporate legacy accounts, suspense accounts, corporate account services and previously added beneficiaries where no payment occurred.
- 2.30** On the issue of corporate legacy accounts, Lloyds Group has said a small number of its corporate accounts are on legacy IT infrastructure, which is not subject to investment. Lloyds Group is migrating these accounts to updated systems. It has told us that it would be disproportionate to invest in the CoP sending capability for these accounts while they are still on the legacy systems.
- 2.31** Some respondents said some payment types could not be CoP-checked – for example, bulk payments and unattended payments.
- 2.32** Some of the banking groups we proposed to direct said their ability to meet the deadlines depends on Pay.UK and OBIE finalising their work on CoP.
- 2.33** They also said the CoP terms and conditions need to be settled as soon as possible because they govern CoP's data transfer and liability arrangements.

Our response

- 2.34** The deadlines proposed in the last consultation paper were informed by the responses to the section 81 notices (which are a formal requirement to provide us with information) that we sent to the banking groups we proposed to direct. In response, they provided detailed information on their CoP implementation time frames. We considered the explanations for their implementation time frames and concluded that they were not unduly conservative. We have considered the issue of the December change freeze and have concluded that the December responding deadline remains appropriate and achievable.
- 2.35** Adopting a phased approach in the direction, with specific deadlines for each payment/account type and/or payment channel, would result in inconsistent levels of protection that may lead to confusion and uncertainty among customers. Moreover, some of the issues with respect to payment/account types and/or payment channels are specific to directed PSPs. Phasing that suits one PSP may not be suitable for others.

- 2.36** We have considered what Lloyds Group has told us about its corporate legacy accounts and decided that it is appropriate to delay the CoP sending requirement for these accounts until they have been migrated. This is because we accept that requiring Lloyds Group to send CoP requests for these accounts before they are migrated would be disproportionate. In coming to this conclusion, we have taken into account the fact that the legacy infrastructure is no longer subject to investment (and to apply CoP processes will require investment), the small number of accounts involved, the fact there is a migration plan in place and the type of customers who hold these accounts.
- 2.37** We have therefore decided to include a provision in the direction providing that Bank of Scotland and Lloyds Bank (the directed PSPs in Lloyds Group) may comply with the sending requirement of the direction for any of those corporate legacy accounts from the date the account has been migrated to the new IT system instead of 31 March 2020. The requirement to respond to a request from 31 December 2019 where one of those accounts is the proposed payee account remains in place.
- 2.38** We have also added to the direction an exceptional circumstances provision. Directed PSPs can apply to us for an exemption from the direction's obligations when they believe exceptional circumstances apply. We have added this provision because we recognise there may be exceptional circumstances that mean it would not be appropriate for PSPs to comply with the obligations in the direction. For example, if an unexpected event occurs after the direction comes into force. When assessing a PSP's application, we, aside from considering whether the circumstances are exceptional, would be able to impose conditions if we decided to approve it – for example, a revised date for compliance.
- 2.39** Suspense accounts are for a PSP's own internal balancing and are generally not enabled for payments. These accounts are not used by consumers or businesses to make or receive payments, so including them would not contribute to achieving our objective. They are therefore not included in the direction.
- 2.40** Bulk payments are not within the phase one rules and standards, so they are excluded from the direction. This includes corporate account services where a PSP allows corporates to process single or multiple BACS payments.
- 2.41** All new proposed payees set up by a payer with their PSP (for example, by submitting a payment mandate) after 31 March 2020 are covered by the direction regardless of whether a payment occurs so that a CoP check must be done (unless otherwise excluded from the direction). Directed PSPs do not have to request a CoP check on proposed payees added before that date (unless the payer amends the payee's sort code and/or account number after 31 March 2020), but they can choose to do so as this direction only imposes minimum requirements.
- 2.42** Unattended payments – for example, where payments are submitted through host-to-host gateways – that do not have automated or manual checking are not within the CoP rules and standards. They are therefore not covered by the requirements of the direction.

- 2.43** We recognise that PSPs depend on Pay.UK and OBIE to implement CoP. They depend on them for the CoP rules and standards and for access to the Open Banking Directory respectively.
- 2.44** As we said in our last consultation, we examined Pay.UK's CoP rules and standards via an extensive data request and concluded they were stable and complete enough for us to mandate in the proposed direction. The only outstanding CoP documents were the terms and conditions and the pricing schedule.
- 2.45** We engaged with Pay.UK again on the CoP documentation after the latest consultation period closed. Pay.UK told us it is close to finalising the terms and conditions and the pricing schedule. While it is important for Pay.UK to complete these documents as soon as possible, PSPs do not need them for the planning and building stages of CoP. There is enough documentation for directed PSPs to plan and build CoP and we are confident the terms and conditions and pricing schedule will be settled in sufficient time to allow PSPs to prepare for and run their CoP services.
- 2.46** Pay.UK has told us that it is working with OBIE to settle the contractual arrangements over use of the Open Banking Directory for CoP. This will be important for PSPs to locate and send messages to one another for CoP checks.
- 2.47** For the reasons given above, we have decided not to change the deadlines for the final direction. Directed PSPs must respond to CoP requests from 31 December 2019 and send them from 31 March 2020. Based on the information we have, we are confident that the directed PSPs can comply with the deadlines.

Views on the payment channels covered by the direction

- 2.48** A small number of respondents supported us giving a direction requiring CoP for all payment channels.
- 2.49** One respondent said we should explicitly list the channels for which CoP should be implemented. Another respondent said the technical feasibility of applying CoP across channels and products is not yet known.
- 2.50** Several respondents were against us giving a direction requiring CoP for all channels. They said the different customer-facing channels and the complexity of operations meant delivering CoP across all channels by the deadlines would be challenging.
- 2.51** One of the banking groups we proposed to direct suggested a phased approach with digital channels first, followed by the others. Another said channel coverage should be left to PSPs. It said some payment channels may prove uneconomic, such as channels with low usage or those involving manual processes, and that PSPs should be permitted to accept the residual liability they are exposed to through the Contingent Reimbursement Model Code.

2.52 One respondent said we should not include payment channels that lack a graphical user interface or channels where the customer does not communicate with a PSP employee. They listed the following examples: FPS direct corporate access, host-to-host channels and transactions by payment initiation service providers. They said in such situations PSPs cannot control the customer messaging.

2.53 Another respondent wanted to clarify whether a single BACS payment initiated through an online channel would be covered by the direction.

Our response

2.54 For clarity, we define payment channels as the following interfaces that can be used to make a payment: mobile, internet, telephone, in-branch and by post. Except for post, we consider it reasonable for directed PSPs to implement CoP on all the payment channels in our definition.

2.55 The Pay.UK CoP rules and standards specify that CoP must be able to run in near real time and the required response times when a bank gets a CoP request. Given that postal payments do not involve near real time interaction with customers, we have not included postal payments in the direction.

2.56 We acknowledge that there is a risk of fraud migrating to postal channels if they are not covered by CoP. However, post is often used in specific circumstances and is not generally considered an alternative for other more immediate payment channels given it takes several days to execute. We therefore expect fraud migration to postal channels to be limited. Despite this exclusion, we want PSPs to take appropriate steps to identify and prevent fraud from occurring through postal payment channels.

2.57 Adopting a phased approach with specific deadlines for each payment channel covered by the direction or leaving the decision to PSPs would likely result in inconsistent levels of protection across channels and/or PSPs. That may lead to confusion and uncertainty among customers.

2.58 Although PSPs who are signatories of the Contingent Reimbursement Model Code may be willing to accept the residual liability arising from not implementing CoP across all channels, avoiding the harm caused by misdirected payments in the first place is a better outcome for consumers than reimbursing them afterwards. In addition, the CoP standards in the Contingent Reimbursement Model Code do not have a start date at present and the Code only protects consumers, micro-enterprises and charities, so our direction is broader in its customer coverage.

2.59 PSPs can control the customer messaging for CoP. As for the specific examples in paragraph 2.52, FPS direct corporate access, host-to-host channels and transactions by payment initiation service providers are out of scope for phase one. Similarly, BACS payments are not in scope for phase one and the direction is being made for FPS and CHAPS only. These transactions are therefore not covered by the direction.

2.60 We have therefore concluded that CoP should be implemented on all payment channels in our definition except for post - namely mobile, internet, telephone and in-branch channels. Based on the evidence provided by the banks, we estimate that less than 1% of payments are executed by post. This exclusion will therefore not affect the overall effectiveness of our direction. Our considerations on post also apply to the very small number of instructions that are sent to PSPs by other methods which do not involve near real time interaction with customers. We are therefore also excluding instructions sent by email, fax, or hand delivered to the branch but processed when the customer is not present (for example, because they are sent to a back office for processing).

Views on payment/account types covered by the direction

2.61 One respondent suggested we should adopt a phased approach to implementing CoP for different customer groups. They said consumers and small businesses should be first, followed by large corporates.

2.62 One respondent said we should include Head Office Collection Accounts in the direction because they are used by fraudsters.

2.63 Several respondents said the direction should not include:

- wholesale payments and payments related to wholesale money markets
- payments related to financial market infrastructures (such as continuous linked settlement)
- pre-populated payments

2.64 Several respondents wanted to clarify whether the direction included:

- cross-border payments
- file-based/batch payments
- payments made using Pingit/Paym
- invoice discounting

Our response

2.65 Both individuals and businesses fall victim to APP scams and accidentally misdirected payments, and fraudsters use both types of account for their scams.

2.66 Adopting a phased approach with specific deadlines for each account type/customer group would likely result in inconsistent levels of protection, as would leaving it to PSPs to decide what channels to deliver CoP for. That may lead to confusion and uncertainty among customers. Also, phasing that suits a particular PSP may not be suitable for others.

2.67 Head Office Collection Accounts are not in scope for phase one. They are therefore not covered by the direction.

- 2.68** We define wholesale payments as large-value PSP-to-PSP transactions across CHAPS (these are sent over CHAPS as 'MT202 payments'). These and most payments related to financial market infrastructures are out of scope of phase one. Payments related to market infrastructures that are in phase one (a minority) are not done by consumers or businesses, so including them would not contribute to achieving our objective. They are therefore excluded from the direction.
- 2.69** Pre-populated payments would follow an initial payment to a payee because they can only be pre-populated if payment information has already been provided. This means the payee would already be established. We are not requiring CoP checks on established payees. They are therefore not covered by the direction.
- 2.70** Cross-border payments are not covered by the direction because the direction only applies to funds being sent between UK-based accounts and the means for such transfers will be FPS or CHAPS, which are UK-specific payment systems.
- 2.71** File-based/batch payments are not covered by phase one and therefore the requirements of the direction do not apply to them. A CoP check will not be required under the direction for individual payments sent using Pingit or Paym (where a user sends payments using a mobile phone number to identify the payee) because they are not initiated with a sort code and account number.
- 2.72** Accounts offering invoice discounting are within the scope of phase one and might be the target of fraudsters. The direction applies to them.

Views on when to do the CoP check

- 2.73** One respondent said PSPs should decide which payment mandates are subject to a CoP check.
- 2.74** Several respondents wanted to clarify if a CoP check should occur when a customer:
- wants to pay an existing payee
 - has previously initiated a payment but it did not occur
 - sets up a payment that will occur in the future but wants to make a single immediate payment to the same payee
 - wants to pay an existing payee after the payee has switched accounts via the Current Account Switch Service (CASS)

Our response

- 2.75** We want to set minimum criteria for when to do CoP checks to make sure we achieve our objective. PSPs can decide to do CoP checks more often than our mandated minimum.

- 2.76** Following stakeholder feedback, we have amended this part of the direction to make it clearer. Directed PSPs must do a CoP check on all new payees added after 31 March 2020 regardless of whether a payment occurs. Directed PSPs do not have to request a CoP check on established payees added before that date but can choose to do so. We are however requiring a CoP check where the sort code and/or account number of an established payee is changed (including where the payee was established on or before 31 March 2020).
- 2.77** This means payments to existing payees will not require a CoP check under the direction. In the other instances set out in paragraph 2.74, a CoP check would have already occurred if the payee was added after 31 March 2020.
- 2.78** In the CASS example, the intended payee could provide the most up-to-date account details to the payer. As the payer is looking to send money to a new account, we consider it appropriate for a CoP check to occur.

Views on Pay.UK's role and Open Banking

- 2.79** A few respondents, including some banking groups that we proposed to direct, said Pay.UK should finalise the rules and standards for CoP phase one as soon as possible. One respondent suggested we should direct Pay.UK and possibly OBIE to complete all outstanding work by 31 August 2019. Another said we should work with Pay.UK to deliver the CoP rules and standards in a timely manner.
- 2.80** One of the banking groups we proposed to direct questioned whether the existing governance, liability and funding arrangements for the Open Banking Directory are sufficient. It said we should consider collaborating with Pay.UK, OBIE and UK Finance on this issue.
- 2.81** One respondent suggested Pay.UK should coordinate CoP's implementation, testing and customer education.
- 2.82** Some respondents raised concerns about CoP phase two. They said PSPs in phase two are at a disadvantage because the phase two documentation is unavailable, meaning they cannot implement CoP for their customers.
- 2.83** Respondents were also concerned over the lack of a delivery timetable for phase two. They emphasised that Open Banking needs to be ready to onboard all phase two PSPs.

Our response

- 2.84** We engaged with Pay.UK on the CoP documentation for phase one after the latest consultation period closed. Pay.UK told us it is close to finalising the remaining documents, namely the terms and conditions and the pricing schedule.
- 2.85** While it is important for Pay.UK to complete these documents as soon as possible, PSPs do not need them for the planning and building stages of CoP. We therefore remain satisfied that there is enough documentation for directed PSPs to implement CoP by the deadlines.

- 2.86** Pay.UK has told us that it is working with OBIE to settle the contractual arrangements over use of the Open Banking Directory for CoP. We are confident the outstanding documents and arrangements, including terms and conditions and pricing schedule, will be settled in sufficient time to allow PSPs to run their CoP services.
- 2.87** Pay.UK is currently developing CoP phase two. It recognises the need to complete phase two as soon as possible. We will continue to engage with Pay.UK on settling the contractual arrangements with OBIE and on CoP phase two, including the readiness of the Open Banking platform to onboard phase two PSPs.
- 2.88** We understand that UK Finance, along with Pay.UK and OBIE, will coordinate the implementation and testing among the directed PSPs.

Views on our cost benefit analysis

- 2.89** One respondent commented on the cost benefit analysis in our recent consultation. They disagreed with CoP's benefits and the fraud prevention rate (set at 70% in the first year and 75% thereafter) because they believe fraudsters will concentrate on activities that avoid CoP detection or will increase their activity to maintain their profit.

Our response

- 2.90** We estimated the benefits of CoP using data provided by the PSPs that we proposed to direct. In response to our section 81 notices, the PSPs provided data on the value of maliciously and accidentally misdirected payments across FPS and CHAPS, which then informed our estimate of the losses that CoP could prevent.
- 2.91** We then selected our CoP fraud prevention rate using information from stakeholders who have implemented CoP-style services in other countries.
- 2.92** Generally, we used conservative assumptions and data inputs for our cost benefit analysis. The estimated net benefit is robust to a wide range of assumptions.
- 2.93** We have reviewed our cost benefit analysis in light of the changes to our direction, including the impact of not directing Cater Allen Limited, Coutts & Co. and Adam & Company, and the extended sending deadline for the legacy corporate accounts at Lloyds Group.
- 2.94** Cater Allen Limited, Coutts & Co. and Adam & Company represent a very low proportion of the FPS and CHAPS transactions that the six largest banking groups are involved in (less than 1%). This means not directing them will not affect the estimated net benefit of our direction in any material way.
- 2.95** Extending the sending deadline for the small number of legacy corporate accounts at Lloyds will likewise not have a material impact on the estimated net benefit of our direction. The benefits associated with these accounts, though small, will accrue later and progressively as they migrate these accounts.

3 Our decision on giving the direction

Given the stakeholder feedback to our latest consultation set out in Chapter 2 and our responses, this chapter sets out our decision on giving the direction and its content. In summary, we have decided to give the specific direction proposed in our consultation with several changes (full direction text in Annex 1). We set out the changes and examine the effectiveness and proportionality of the direction in this chapter.

- 3.1** Our objective is to make sure that CoP is introduced in a way that significantly reduces losses from APP scams and accidentally misdirected payments. We remain of the view, having considered the responses from stakeholders to the draft direction we published with our consultation, that giving a specific direction to PSPs in the six largest banking groups is the right approach to achieving our objective.
- 3.2** However, the responses did identify several issues that have led us to make a number of changes to the design and wording of the direction, and the PSPs to which we are giving the direction. The revised direction is set out in full in Annex 1.

Our direction at a glance

- 3.3** We are giving a direction to Bank of Scotland plc, Barclays Bank UK plc, Barclays Bank plc, HSBC Bank plc, HSBC UK Bank plc, Lloyds Bank plc, National Westminster Bank plc, Nationwide Building Society, Royal Bank of Scotland plc (except for its brand Adam & Company), Santander UK plc and Ulster Bank Limited. They are all participants in FPS and/or CHAPS.
- 3.4** The direction covers proposed transactions that start and end at UK-based accounts and may happen over FPS or CHAPS. It does not cover the following payment types: bulk payments, CHAPS MT202 payments, payments to or from an account of a financial market infrastructure, payments to or from a PSP's own account and suspense accounts, payments to a Head Office Collection Account, unattended payments, payments made by indirect PSPs for their customers, and instructions received by post (or by email, fax, or those hand delivered to the branch but processed when the customer is not present.)
- 3.5** If a directed PSP provides the account that is to receive the funds, it must respond to every CoP request (whether from a directed PSP or another PSP) that is sent after 31 December 2019.
- 3.6** If a directed PSP provides the account from which the funds are to be sent, after 31 March 2020 it must send a CoP request (whether the funds are being sent to an account at a directed PSP or another PSP) when the payee is established by the payer with the PSP (or the sort code and/or account number of an established payee is changed).

- 3.7** Certain corporate legacy accounts at Lloyds Group have an extended deadline for sending CoP requests. Bank of Scotland and Lloyds Bank (the directed PSPs in Lloyds Group) may comply with the sending requirement of the direction for those corporate legacy accounts from the date the account has been migrated to the new IT system instead of 31 March 2020. The requirement to respond to a request from 31 December 2019 where one of those accounts is the proposed payee account remains in place.
- 3.8** We are requiring the directed PSPs to use the CoP rules and standards developed by Pay.UK. We are not requiring a directed PSP to respond to a CoP request unless it is sent in accordance with those rules and standards.

Changes we made to the direction

- 3.9** We have made the following changes to the direction in response to the feedback to our last consultation):
- We are not giving a direction to Cater Allen Limited, Coutts & Co. and Royal Bank of Scotland plc in relation to its brand, Adam & Company (see 2.17 to 2.25).
 - We have explicitly excluded the following additional payment types:
 - payments made by indirect PSPs for their customers (see 2.25)
 - payments to or from a PSP's own account and suspense accounts (see 2.39)
 - unattended payments (for example, host-to-host payments) (see 2.42)
 - instructions received by post (or by email, fax, or those hand delivered to the branch but processed when the customer is not present) (see 2.54 to 2.60)
 - CHAPS MT202 payments (see 2.68)
 - payments to or from an account of a financial market infrastructure (see 2.68)
 - We have given an extended deadline for sending CoP requests for certain corporate legacy accounts at Lloyds Group (see 2.36 to 2.37).
 - We have added a provision for directed PSPs to request an exemption for exceptional circumstances (see 2.38).

We considered the effectiveness and proportionality of the direction

- 3.10** In deciding whether to direct and, if so, which PSPs to direct and what requirements to include in the direction, we have considered whether a direction would be effective and proportionate. We set out in Chapter 3 of our last consultation document why we considered the draft specific direction we consulted on to be effective and proportionate.
- 3.11** As described in Chapter 2 of this document, we have decided not to direct Cater Allen Limited, Coutts & Co. and Royal Bank of Scotland plc in relation to Adam & Company. We have also made some changes to the design and wording of the direction, mainly to make it clearer which accounts are subject to the direction and at what point the check is to be done, to account for migration plans for certain corporate accounts held on legacy technology at Lloyds Group, and to provide for exemptions from the obligations of the direction in exceptional circumstances.
- 3.12** In deciding the terms of our direction as set out in Annex 1, we have considered the following:
- **Effectiveness:** Our direction must achieve the objective we have identified and it must be feasible to implement, monitor and enforce.
 - **Proportionality:** Our direction must be proportionate. We have considered whether it is proportionate by reference to four questions:
 - Is the objective of our direction sufficiently important to justify its imposition?
 - Is our direction rationally connected to that objective?
 - Could a less intrusive measure, or no measure, be used to achieve that objective?
 - Is the severity of the effects of the direction on the directed PSPs, in particular on their right to decide if, how and when to introduce CoP, outweighed by the importance of the objective to the extent that the measure will contribute to its achievement?

Effectiveness

- 3.13** Our objective is to make sure that CoP is introduced in a way that significantly reduces losses from APP scams and accidentally misdirected payments. CoP will significantly reduce losses from misdirected payments by giving payers more information to verify the account details they have entered. Directing for CoP will make sure the technology is introduced in a widespread and coordinated manner using appropriate and consistent standards.
- 3.14** In Chapter 3 of our paper accompanying our proposed draft specific direction⁷, we explained that we had considered a range of options relating to the giving of the direction (including its contents) and had also considered the implementing, monitoring and enforcing of the direction to ensure that our proposed direction would be effective.

⁷ See pages 21 to 25 in our last consultation paper: <http://www.psr.org.uk/sites/default/files/media/PDF/PSR-CP-19-4-CoP-specific-direction-consultation-May-2019.pdf>

3.15 We then concluded that directing for CoP will achieve the objective we have identified (set out above) and be feasible to implement, monitor and enforce. In considering whether to give a direction, and if so, to whom and its contents, we have considered again whether our direction will achieve the objective and is feasible to implement, monitor and enforce. In doing so, we have taken account of the changes made following the consultation and referred to in Chapter 2 of this document.

Whom to direct

3.16 As set out in paragraphs 2.17 to 2.25, we have decided to direct the PSPs in the six largest banking groups because of the significant share of total FPS and CHAPS transactions they are involved in. Compared to the draft direction we consulted on, we are not directing Cater Allen Limited, Coutts & Co. and Adam & Company because of technical and business process issues they would face in meeting the deadlines. In doing this, we are not materially affecting the achievement of our objective. These banks represent a very low proportion of the FPS and CHAPS transactions that the six largest banking groups are involved in (less than 1%).

Implementation deadlines

3.17 As set out in paragraphs 2.34 to 2.47, we have decided to keep the implementation deadlines we proposed in our last consultation. They are based on detailed time frames that we required the PSPs to give us. We did not consider the time frames to be unduly conservative.

3.18 Most respondents to the consultation supported the deadlines. In addition, Pay.UK's rules and standards are stable and complete enough for directed PSPs to plan and build their CoP services. Following the consultation, we maintain the directed PSPs can meet the deadlines in the direction. These deadlines ensure that we can achieve our objective in a timely manner.

3.19 As set out in paragraphs 2.36 to 2.37, for certain corporate legacy accounts at Lloyds Group, the obligation to send CoP requests will apply once those accounts have been migrated to new technology. This change, applying only for sending from a small number of corporate accounts, will not materially affect the achievement of our objective.

3.20 Having made these adjustments to the direction, we believe the directed PSPs will be able to implement CoP by the deadlines.

Payment channels covered

3.21 In line with the draft direction we consulted on, and as set out in paragraphs 2.54 to 2.60, we have decided to include all the following payment channels: mobile, internet, telephone and in-branch. CoP can be implemented on all these channels. Doing so will minimise customer confusion from inconsistent protection across channels and ensure that the benefits of CoP are broadly available across channels. However, for the reasons given in 2.55 and 2.56, we do not consider it necessary or appropriate to include instructions for a new payee (or amendments to the sort code and/or account number of an existing payee) delivered by post (or by email, fax, or those hand delivered to the branch but processed when the customer is not present).

The payment and account types covered

3.22 As set out in paragraphs 2.39 to 2.42, 2.59, and 2.67 to 2.72, we have decided to include most payment and account types covered by phase one. As compared with the direction we consulted on, the direction we are giving is clearer about what types of payments are not covered by its requirements (for example, those to or from financial market infrastructures). Many of these transactions will not be within the scope of phase one and, in any event, the nature of the excluded transactions and/or the type of customers involved means there will be no meaningful impact on achieving our objective.

When to do a CoP check

3.23 As set out in paragraphs 2.75 to 2.78, we have decided that directed PSPs must do a CoP check on all new payees established by the payer with their PSP after 31 March 2020 (even if a payment does not immediately follow) and must also do a check where the sort code and/or account number of an established payee changes. We concluded that these are appropriate minimum criteria for when to do CoP checks to make sure we achieve our objective.

Pay.UK rules and standards

3.24 As set out in paragraphs 2.84 to 2.88, we have concluded that there is sufficient documentation for directed PSPs to plan and build CoP and we are confident that the terms and conditions and pricing schedule will be settled in sufficient time to allow PSPs to run their CoP services. The Pay.UK rules and standards can be introduced in accordance with this direction and they provide an appropriate means for CoP to be introduced, providing common standards that will facilitate the successful introduction of CoP processes, thus supporting the achievement of our objective.

Exceptional circumstances

3.25 We have included an exceptional circumstances provision (explained in paragraph 2.38) because we acknowledge there may be situations where exceptional circumstances exist that mean it would not be reasonable for the obligations under the direction to apply. When assessing a PSP's application, we, aside from considering whether the circumstances are exceptional, would be able to impose conditions if we decided to approve it. Those conditions could be used to mitigate the impact of granting the exemption and could include an alternative deadline for compliance with the direction. The exemption provision strikes an appropriate balance between offering a way for PSPs to seek an exemption and not materially increasing the risk that we do not achieve our objective.

Monitoring and enforcing

3.26 Directed PSPs must report on their plans for implementing the direction. This will help us manage implementation risks and therefore the risk of not achieving our objective.

3.27 We have added a requirement for directed PSPs to tell us, as part of their reports, about accounts that may be the subject of an application for exceptional circumstances.

- 3.28** The direction provides clear requirements that are measurable, meaning we can assess PSPs for compliance.

Conclusion

- 3.29** In Chapter 3 of our May 2019 consultation paper, we concluded that our proposed direction would be effective. We remain of that view for the revised direction. We are satisfied that the direction will achieve the objective we have identified and can be implemented, monitored and enforced. The changes we have made, in particular our decision not to apply the direction to Cater Allen Limited, Coutts & Co. and Adam & Company, to provide Lloyds Group with more time to comply with the sending obligation for certain corporate accounts and to exclude payment instructions received by post (or by email, fax, or those hand delivered to the branch but processed when the customer is not present), will not materially affect the transaction coverage of our direction. In addition, the inclusion of an exceptional circumstances provision and more explicit exclusions of certain types of transaction will not materially affect its effectiveness.

Proportionality

Is the objective of our direction sufficiently important to justify its imposition?

- 3.30** Our objective is to make sure that CoP is introduced in a way that significantly reduces losses from APP scams and accidentally misdirected payments.
- 3.31** Each year misdirected payments cause millions of pounds in losses to individuals and businesses. We estimate the unrecovered loss from misdirected payments to be around £145 million a year. These financial losses often cause emotional distress, such as acute stress and anxiety.
- 3.32** This is a significant amount of harm. We expect our direction to prevent a substantial amount of this harm, thereby providing benefits to service users. It will also reinforce and increase confidence in payment systems, particularly FPS and CHAPS. We therefore consider the objective sufficiently important to justify giving a direction to achieve it.

Is our direction rationally connected to that objective?

- 3.33** We have designed the direction, including the changes since the last consultation, to achieve our objective. It will do this by making sure the PSPs responsible for the majority of FPS and CHAPS transactions introduce CoP. Our deadlines are the earliest dates by which we have sufficient confidence that the directed PSPs can introduce CoP in a way that achieves our objective.
- 3.34** The direction requires compliance with the rules and standards developed by Pay.UK, the most obvious standards setting body. Those rules and standards provide a clear approach for PSPs to introduce CoP.

Could a less intrusive measure, or no measure, be used to achieve that objective?

- 3.35** We considered not directing and instead leaving it up to individual PSPs to introduce CoP. The directed PSPs have told us they plan to introduce CoP for FPS and CHAPS transactions, but none has yet done so. We are aware of several other PSPs who intend to introduce CoP.
- 3.36** We also considered whether the Contingent Reimbursement Model Code meant we no longer needed to give a direction. However, this would be less effective at reducing fraud than requiring CoP through a direction. The Code focuses on protecting consumers, micro-businesses and charities. Our direction requires CoP requests and responses for all new payees added by payers using individual (including joint) accounts or business accounts. This means our direction covers more accounts than the Code.
- 3.37** CoP also works to prevent accidentally misdirected payments, only around a third of which are recovered. The Code does not cover accidentally misdirected payments.
- 3.38** By its nature, a CoP process over FPS or CHAPS involves different PSPs interacting. Even if the PSPs we are directing were to introduce a CoP process themselves, they would likely introduce CoP at different times.
- 3.39** Uncoordinated implementation would risk our objective and would undermine or delay CoP's benefits. Customers of PSPs would face greater uncertainty as to whether their transaction would be subject to a CoP check, potentially diminishing its usefulness.
- 3.40** In contrast, our direction will lead to widespread coverage by requiring the introduction of CoP by those who are involved in around 90% of FPS and CHAPS transactions as either the sending or receiving bank (or both). It will provide much greater certainty, compared to not directing, that CoP is delivered in an appropriately staged, coordinated and timely way using appropriate common standards.
- 3.41** Compared with the draft direction we consulted on, we have decided not to direct Cater Allen Limited and Coutts & Co. - small banks within the Santander and Royal Bank of Scotland groups respectively. We are also not directing Royal Bank of Scotland plc in relation to accounts held at its Adam & Company brand.
- 3.42** Excluding these banks will not have an impact on the achievement of our objective because they represent a low proportion of the FPS and CHAPS transactions that the six largest banking groups are involved in (less than 1%). In addition, requiring them to comply means they would have to deal with technical and business process issues in time to meet the deadlines, meaning they would face additional costs and complexity.

Is the severity of the effects of the direction on the directed PSPs, in particular on their right to decide if, how and when to introduce CoP, outweighed by the importance of the objective to the extent that the measure will contribute to its achievement?

- 3.43** We understand that all the PSPs we are directing have plans to introduce CoP at some stage. We expect that the CoP process they would have introduced without the direction would have been in line with the Pay.UK rules and standards. Also, the direction deadlines for responding to and sending CoP requests are dates that we believe those PSPs are reasonably capable of meeting.
- 3.44** The direction makes sure that the directed PSPs will introduce CoP by the deadlines included in it (if not, a directed PSP would be at risk of enforcement action). We believe that, without our proposal to direct, one or more of them would introduce the CoP service later than we have specified. The coordination provided by the direction means that CoP should be introduced in a way that significantly reduces losses from APP scams and accidentally misdirected payments. The benefits of this (both in terms of preventing financial loss and the social cost to people) significantly outweigh any difficulties that a directed PSP might face because of the direction.⁸ The changes we have made to the direction, given the feedback to our consultation, do not materially impact the outcome of the cost benefit analysis, namely the estimated net benefit from directing.
- 3.45** We have made changes to the direction to make clearer which payment and accounts types are excluded.
- 3.46** For the reasons given above and in paragraphs 2.55 to 2.56, we have excluded from the direction instructions received by post (or by email, fax, or those hand delivered to the branch but processed when the customer is not present). That will reduce the impact of the direction on directed PSPs.
- 3.47** We have allowed Lloyds Group to comply with sending CoP requests for certain corporate accounts once they are migrated to new technology. This is because requiring Lloyds Group to implement CoP for these accounts before they are migrated would be disproportionate given that the legacy infrastructure is no longer subject to investment (and applying sending capabilities will require investment), the small number of accounts involved, the fact there is a migration plan in place, and the type of customers who hold these accounts.
- 3.48** We have introduced a provision allowing directed PSPs to apply for exemptions from their obligations where exceptional circumstances apply. We have done this to reduce unnecessary negative impacts on the directed PSPs. We have concluded that including an exemption application process is appropriate because a PSP should be able to seek relief from an obligation that it cannot reasonably comply with due to an exceptional circumstance.

⁸ See the cost benefit analysis section in our last consultation paper: psr.org.uk/sites/default/files/media/PDF/PSR-CP-19-4-CoP-specific-direction-consultation-May-2019.pdf

Conclusion

- 3.49** For the reasons given above, considering all its impacts, we have concluded that our direction is proportionate. The changes we have made, compared to the specific direction we consulted on, account for the proportionality issues we were made aware of in our consultation on the draft direction.
- 3.50** Below we set out our considerations, related to the provisions of Article 6 of the General Data Protection Regulation (GDPR), on whether the direction meets an objective of public interest and is proportionate to the legitimate aim pursued.

GDPR – legal obligation

- 3.51** Article 6 of GDPR sets out the bases that enable the lawful processing of personal data. In our consultation on the specific direction, we referred to Pay.UK concluding that the most appropriate legal basis for the processing of personal data when a CoP request is being made and responded to is ‘legitimate interests’ (Article 6.1(f)).⁹ We noted that Pay.UK had carried out a legitimate interest assessment. Another basis for lawful processing is where it is necessary to comply with a legal obligation to which the controller is subject (Article 6.1(c)).
- 3.52** PSPs (and anyone else involved in the processing, most obviously a third-party supplier of a CoP solution to a PSP) will need to consider, when processing personal data as part of sending or responding to a CoP request, the appropriate legal basis for doing so.
- 3.53** They may conclude that the basis that applies is ‘legal obligation’. That is because we are requiring PSPs to introduce a CoP process that inevitably involves processing personal data. Because of this, and the requirements of Article 6.3, we have considered whether giving the direction under section 54 of the Financial Services (Banking Reform) Act 2013 (FSBRA) meets an ‘objective of public interest’ and is ‘proportionate to the legitimate aim pursued’.
- 3.54** We set out below why we consider the direction being made under section 54 of FSBRA meets an objective of public interest and why the direction is proportionate to the legitimate aim pursued.

Does the direction meet an objective of public interest?

- 3.55** The primary objective of CoP is to prevent detriment to service users caused by misdirected payments and to provide users with greater assurance that the payments they make reach the intended recipients.
- 3.56** The applicable data controllers will need to process a certain amount of personal data to provide the CoP service to users intending to make a payment. We believe the direction (and the processing required as a result) will address the detriment to consumers that is caused by misdirected payments. Without this type of processing, the CoP service cannot be delivered and the benefits to users would not be fully realised.

⁹ See paragraph 2.79 of our last consultation paper: psr.org.uk/sites/default/files/media/PDF/PSR-CP-19-4-CoP-specific-direction-consultation-May-2019.pdf

- 3.57** Specifically, CoP will benefit service users by providing them with a tool to help identify, protect themselves from and mitigate certain types of fraud, as well as to identify potential errors prior to initiating a payment. This will be of significant public benefit to payers and payees.
- 3.58** In addition, we believe CoP will also benefit data controllers, by saving costs and freeing up resources (as it will drive a reduction in the number of misdirected payments) and by enhancing goodwill with customers.
- 3.59** We also believe the direction will benefit the wider public, because the CoP service will reduce fraud. There is also a wider public benefit from increasing consumer confidence when making payments, as well from addressing and minimising the detriments for service users.
- 3.60** More generally, we believe the introduction of CoP will help reduce the emotional impact that APP scams can have on victims, improve trust in payment systems, and improve service user experience by providing greater assurance that payments have gone to the right place.
- 3.61** We consider the above-identified benefits to be firmly within the public interest and the objective sufficiently important to justify imposing the direction to achieve it.

Is the giving of the direction proportionate to the legitimate aim?

- 3.62** CoP will involve several steps that include the processing of personal data. While the processing involved in a number of these steps already takes place today when payers initiate payments, other types of processing, such as the name matching verification, are not necessarily undertaken.
- 3.63** We believe the process for CoP outlined by Pay.UK appropriately minimises the amount of personal data that is required to be processed while at the same time allowing sufficient processing to take place to achieve CoP's objectives. In the case of a 'close match', we consider the proposal to return the name of the payee to be proportionate. Alternative options involving less intrusive processing (for example, only returning 'close match' rather than an actual name) are likely to be significantly less effective.
- 3.64** The Pay.UK proposition includes several safeguards to mitigate any negative impacts, including provisions for a customer to ask its PSP to opt them out of being subject to a CoP check due to vulnerability. We consider that the interests and fundamental rights and freedoms of data subjects are not overridden by the processing of personal data involved in operating CoP under the Pay.UK rules and standards.
- 3.65** Without the processing identified above, CoP could not be appropriately delivered and the benefits to service users would not be realised. We also believe the same purpose would not be achieved by processing less data, or by processing it in another way.
- 3.66** We therefore consider the direction (and the processing of personal data required as a result) to be proportionate to the legitimate aim that we are pursuing, and that the degree of processing required by CoP (as set out in the Pay.UK rules and standards) is the most appropriate way to achieve the intended outcome.

4 Equality impact assessment

In line with our public sector equality duty under the Equality Act 2010, we must assess the likely equality impacts and reasons for giving a direction. In this chapter, we explore the impacts we believe CoP and its implementation as per the direction will have, including on people with relevant protected characteristics.

4.1 In deciding whether to give the direction and its contents, we have considered section 149 of the Equality Act 2010 (the public sector equality duty), particularly the impact of our direction on people with protected characteristics.¹⁰

4.2 We included an impact assessment in both our CoP consultations. This updated assessment considers the responses to the assessment in our last consultation.

Payers

4.3 CoP will introduce an appropriate and necessary level of friction for those making payments because they will need to consider the CoP result. There is a higher risk of poor outcomes for some people with protected characteristics, including some elderly people and people with certain physical or mental health disabilities.

4.4 CoP will make establishing a payee for payments more involved for a payer because they will need to enter the payee's name correctly. Payers will also need to consider the response to the CoP check done on that name. If there is no match or a close match, the payer will need to decide whether to proceed with the transaction. This additional complexity is more likely to affect people with certain attributes linked to protected characteristics.

4.5 However, given the significant benefits of CoP, we consider it appropriate to give the direction. Three respondents to our last consultation said it is important that vulnerable consumers can show they have a general understanding of the decisions they need to make during a payment. They also said PSPs may need to pay more attention to vulnerable consumers.

4.6 PSPs should take steps to mitigate the impact of any additional complexity associated with CoP – this would include educating customers, especially those who are most likely to be negatively affected.

Payees

4.7 The Pay.UK rules and standards allow service users to ask their PSP to opt them out of CoP due to vulnerability. The rules and standards provide guidance on the categories of vulnerable customer that PSPs may consider opting out. We expect PSPs to follow this guidance.

¹⁰ The relevant protected characteristics under section 149 are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

- 4.8** We note that someone whose details are not checked following an opt-out connected to vulnerability, in some circumstances, and depending on the payer, may be less likely to receive the funds from the payer. The payer may be put off making the payment because a substantive CoP response was not returned.
- 4.9** Although this may happen in certain circumstances, we still consider it appropriate to give the direction in Annex 1. This is because of the broader benefit to payers, the small number of situations we think are likely to arise in practice, and mitigations that may be available (for example, additional direct communication between the payer and payee to check the details or the use of alternative methods of payment).

Our conclusion

- 4.10** No respondent to our first and second consultations said we should not give a direction because of its impact on equality. We believe our direction will bring significant benefits to payers and payees, including those with protected characteristics. The benefits will substantially outweigh the negative impacts, including any that could disproportionately affect people with certain protected characteristics.
- 4.11** We have therefore decided to give the direction in Annex 1.

Annex 1

Specific Direction 10: Confirmation of Payee

1 Recitals

Whereas:

- 1.1** Confirmation of Payee (CoP) is a process that aims to reduce fraud and misdirected payments in electronic bank transfers. It checks the name of the payee against the details given by the payer.
- 1.2** The Payment Systems Regulator (PSR) expects that introducing CoP for transactions made between accounts held in the United Kingdom will significantly reduce the number of authorised push payment (APP) scams. In these scams, a fraudster tricks someone into sending money to an account that the payer believes is legitimate, but is in fact under the control of the fraudster.
- 1.3** Without CoP, banks use unique identifiers (usually sort code and account number) entered by the payer to identify the receiving account – although the intended payee's name may be provided, there is no agreed way of checking the name against the account to which the unique identifiers relate. CoP checks should significantly lower the risk of payments being misdirected by accident or because of fraud.
- 1.4** Therefore, introducing CoP for the Faster Payments Scheme (FPS) and CHAPS will be a valuable tool in preventing fraudulent or accidental misdirection. These are the biggest volume push payment systems in the United Kingdom used for sending money between different payment service providers (PSPs).

PSPs may still decline to process transactions for commercial reasons, or if they:
 - suspect fraud or the likelihood of accidental misdirection
 - are otherwise prevented by law from processing a payment
- 1.5** Although a range of PSPs have indicated that they will introduce a CoP process for payments involving accounts at different PSPs held in the United Kingdom, progress on implementing CoP has been slow. The benefits associated with CoP depend, to a significant degree, on its widespread introduction. This is because transactions that use FPS and CHAPS take place between accounts held at different PSPs, and CoP will only work if both PSPs involved in a transaction offer the service.
- 1.6** FPS and CHAPS are designated by HM Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 ('the Act') for the purposes of Part 5 of the Act. This means we may give a direction in relation to them under section 54 of the Act.

- 1.7** The PSR has decided to require certain PSPs to introduce processes for sending and responding to CoP requests. They must introduce the processes to specific deadlines. Giving this direction will ensure that CoP is introduced in a way that is highly likely to achieve our objective – a significant reduction in losses due to APP scams and accidentally misdirected payments.
- 1.8** In deciding whether to give the direction, who to direct, the deadlines to be imposed and what the CoP process should be, the PSR has taken the following into account:
- a. The PSPs that we give this direction to were either the sending or receiving PSPs, or both, for approximately 90% of the total volume of transactions over FPS and CHAPS in 2018 (and that it is appropriate, where participants in FPS and/or CHAPS are members of the same banking group, to aggregate the volume of transactions by those PSPs when considering which PSPs should be directed).
 - b. Therefore, directing those PSPs to introduce the CoP process as required by this direction will result in its widespread use for transactions over FPS and CHAPS.
 - c. This will make it highly likely that the PSR's objective will be achieved.
 - d. Based on information provided, the PSR considers that:
 - the directed PSPs will be able to comply with the deadlines in the direction for responding to, and sending, CoP requests
 - those deadlines are the earliest dates that we can require CoP to be introduced
 - e. Pay.UK has developed rules and standards for CoP. PSPs, in particular those that we give this direction to, are aware of these rules and standards.
 - f. Those rules and standards, if implemented, would provide an appropriate CoP process.
 - g. Those rules and standards currently only relate to proposed transactions between accounts identified by sort code and account number.
 - h. Those rules and standards do not currently provide for a CoP process where the sending or receiving account (or both) for a proposed transaction is held abroad. Only that part of an international payment journey that takes place within the United Kingdom will be done over FPS or CHAPS as they are UK payment systems.
 - i. Those rules and standards do not currently provide for a CoP process where the proposed transaction being made is a bulk payment, where a PSP uses an account receiving money to aggregate sums of money before sending them to the relevant accounts of individuals (these are often known as Head Office Collection Accounts), where the receiving account is a suspense account or where the proposed transaction is an unattended payment (that is, the PSP is providing technical access to FPS or CHAPS to the person sending the funds and therefore the usual actions taken by the sending PSP on a CHAPS or FPS transaction are not carried out by it).
 - j. The direction should only cover proposed transactions involving accounts that the Pay.UK rules and standards currently relate to.

- k. It is not necessary or desirable to require a CoP process where the funds are being transferred between financial institutions for their own purposes or in connection with other wholesale activity for financial institutions, to require a directed PSP to carry out a CoP process where the proposed transaction is being carried out by an indirect PSP for one of that PSP's customers or to require a CoP process where the instructions are provided by post (or by email, fax, or those hand delivered to the branch but processed when the customer is not present).
- l. With the introduction of CoP, a payer will face an additional process, and therefore friction in carrying out the transaction – particularly if the response to the CoP request is that there is no match, or a close match that requires further consideration.
- m. The direction should only require a CoP check to be carried out the first time the PSP's customer provides the details necessary to pay a new payee (or amends the unique identifiers in relation to an existing payee) whether or not funds are sent immediately following the provision of the details.
- n. It is appropriate to require directed PSPs to report on their progress in meeting the requirements of this direction, so that the PSR can ensure they have the necessary processes in place.
- o. There may be exceptional circumstances where it would not be appropriate to require a directed PSP to comply, in relation to an account or accounts, with obligations imposed by the direction.

2 Power exercised and purpose

- 2.1 The PSR makes this direction in accordance with section 54 (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to persons of a specified description.
- 2.2 The purpose of this direction is to ensure CoP processes are introduced in a way that significantly reduces losses from APP scams and accidentally misdirected payments over FPS and CHAPS.

3 Direction

NOW the Payment Systems Regulator gives the following specific direction to: Bank of Scotland plc, Barclays Bank UK plc, Barclays Bank plc, HSBC Bank plc, HSBC UK Bank plc, Lloyds Bank plc, National Westminster Bank plc, Nationwide Building Society, Royal Bank of Scotland plc, Santander UK plc and Ulster Bank Limited.¹¹

¹¹ Bank of Scotland plc and Lloyds Bank plc are part of the Lloyds Group; Barclays Bank UK plc and Barclays Bank plc are part of the Barclays Group; HSBC Bank plc and HSBC UK Bank plc are part of the HSBC Group; National Westminster Bank plc, Royal Bank of Scotland plc and Ulster Bank Limited are part of the Royal Bank of Scotland Group; Santander UK plc is part of the Santander Group.

4 Requirement to introduce Confirmation of Payee

- 4.1** After 31 December 2019, a directed PSP must respond to every CoP request made to it that complies with the CoP rules and standards.
- 4.2** The response must comply with the CoP rules and standards.
- 4.3** Paragraph 4.5 applies where, after 31 March 2020, a customer holding an account with a directed PSP provides to the PSP, by an appropriate method, the necessary information about a new payee.
- 4.4** Paragraph 4.5 also applies where, after 31 March 2020, a customer provides to a directed PSP, by an appropriate method, an amendment to the unique identifiers of an established payee.
- 4.5** The directed PSP must send a CoP request in respect of the account to which the unique identifiers given by the customer as those of the payee relate.
- 4.6** The request sent by the directed PSP under paragraph 4.5 must comply with the CoP rules and standards. The directed PSP must deal with the response to that request (or the absence of a response) in accordance with those rules and standards.

Application and exceptions

- 4.7** The requirements of paragraph 4.5 only apply where:
- a. both the account from which the funds are to be sent ('the sending account') and the payee's account – as identified by the unique identifiers given by the customer – ('the receiving account') are UK accounts, and
 - b. the unique identifiers used to identify both the sending and receiving accounts take the form of a sort code and account number
- 4.8** The requirements of paragraph 4.5 do not apply where:
- a. the necessary information (or amended unique identifiers) is provided in anticipation of the customer making a transaction that is a bulk payment
 - b. the receiving account is a Head Office Collection Account
 - c. the receiving account is a suspense account
 - d. the necessary information (or amended unique identifiers) is supplied in anticipation of funds being sent by way of an unattended payment routing
 - e. a PSP is proposing to send funds on its own behalf

- f. the necessary information (or amended unique identifiers) is provided in anticipation of a transaction between the sending and receiving accounts being by way of a CHAPS 'MT202 general financial institution transfer' (within the meaning of the CHAPS technical requirements published by the Bank of England¹²) or a transfer of funds from or to an account of a financial market infrastructure (within the meaning of the 'Principles for financial market infrastructures' published by the Bank for International Settlement and the International Organization of Securities Commissions¹³) (central counterparties etc)
- g. the customer is an indirect PSP (within the meaning of the Code of Conduct for Indirect Access Providers published by Pay.UK¹⁴) providing the details of the payee in order to facilitate the transfer of funds by a customer of that PSP, or
- h. the necessary information (or amended unique identifiers) is received by the customer's PSP by post, email, or fax, or is contained in instructions that are hand delivered to a branch (or other office) of the PSP but which are not processed with the customer present.

Exclusion of certain accounts

- 4.9** Royal Bank of Scotland plc does not have to comply with the obligations under this direction in relation to accounts held at its Adam & Company brand.

Alternative deadline for sending CoP requests for certain corporate customers

- 4.10** Bank of Scotland plc and Lloyds Bank plc in respect of a customer holding an account described in paragraph 4.11 may comply with the duty to send a CoP request for that customer from the migration date instead of from 31 March 2020.
- 4.11** An account held by a corporate customer in respect of which the information technology platform on which it is held, on the date this direction comes into force, is no longer subject to infrastructure investment and is one of those notified to the PSR in writing by Lloyds Group on 5 June 2019¹⁵ ('corporate legacy accounts').

Exemption for exceptional circumstances

- 4.12** A directed PSP may apply to the PSR for an exemption from the duty to comply with one or more obligations set out in this Specific Direction in respect of any of its UK accounts on grounds that exceptional circumstances reasonably prevent it from complying with the obligation or obligations.

12 See: bankofengland.co.uk/-/media/boe/files/payments/chaps/chaps-technical-requirements

13 See: bis.org/cpmi/publ/d101a.pdf

14 See: wearepay.uk/wp-content/uploads/2018/12/Code-of-Conduct-for-Indirect-Access-Providers-Pay.UK-Final_November2018.pdf

15 See accompanying published responses to our May 2019 consultation.

- 4.13** The application must be in writing and set out:
- a. the obligation or obligations to which the application relates
 - b. the exceptional circumstances that, in the PSP's opinion, justify the exemption
 - c. the number and type of accounts to which the application relates
 - d. the steps (if any) the PSP has taken to comply with its obligations under the direction
 - e. if the PSP is proposing that it comply with an amended form of its obligations under this direction (for instance, relating to the dates set out in paragraphs 4.1 to 4.5), the nature of the amendments sought
 - f. whether, in the PSP's opinion, the application contains information that is confidential (and identify that information)

4.14 The PSR may ask the PSP to provide further information for the purposes of determining the application (and the PSP, when responding, must identify any information provided that, in its opinion, is confidential).

4.15 The PSR may reject an application or approve it in whole, or in part, and may make approval subject to compliance with conditions.

4.16 The PSR may publish the application (and any further information provided about the application) and its decision (except confidential information).

4.17 The effect of the PSR approving an application is that the PSP need not comply with an obligation or obligations imposed under this direction to the extent it (or they) is (or are) disapplied by the approval, but the PSP must comply with any conditions imposed.

Monitoring

4.18 A directed PSP must send the PSR a written report on how it proposes to introduce CoP to the deadlines required by this direction.

- 4.19** That report must contain at least the following information:
- a. the PSP's timetable for implementation of CoP in accordance with the requirements of this direction
 - b. the key milestones in each month that the PSP intends to meet to implement CoP
 - c. the key risks to the PSP meeting the deadlines set out in paragraphs 4.1 to 4.5, and the mitigations it has put in place
 - d. if the directed PSP expects to make an application relating to exceptional circumstances under paragraph 4.12, such information as is available at the time the report is submitted about that application (including the expected timescale for any application)

4.20 A directed PSP must submit its first report on or before 29 September 2019. It must then submit a report every two months until the PSR informs it in writing that it does not need to submit any more.

- 4.21** Where this direction has been given to more than one PSP in the same banking group, those PSPs may submit a joint report.
- 4.22** The PSR may, in writing, in respect of any directed PSP provide that:
- a. it must submit its first report on or before a different date
 - b. it must submit reports more or less frequently than every two months
 - c. it must submit a report on or before a particular date that we did not previously require
 - d. it does not need to submit a report where otherwise one would be required
- 4.23** The PSR may, in writing, require a directed PSP to provide it with information about how the PSP is complying, or proposes to comply, with this direction. The PSP must provide the information by the date given by the PSR.

Definitions and interpretation

- 4.24** 'A directed PSP' means each of the PSPs to which this direction is given.
- 4.25** A 'CoP request' means a request sent by a PSP to check the name of the intended payee (that is, the person to whom or which the payer anticipates sending funds) against the name of the person who holds the account to which the unique identifiers given by the payer when providing the necessary information (or amending the unique identifiers in that information) refer.
- 4.26** The 'CoP rules and standards' means the rules and standards for CoP provided for in the rule book developed by Pay.UK¹⁶, as they stand at the time the request is received (in respect of the requirements in paragraph 4.1) or at the time the PSP receives the necessary information (or amended unique identifiers) from the customer (in respect of the requirements in paragraph 4.5).
- 4.27** 'Appropriate method' means a method that is used by the directed PSP for a customer to provide instructions to it that may be used by the PSP for executing a payment from the customer's account to the payee (whether or not a payment is intended to immediately follow the instructions) where that payment may be made using FPS or CHAPS.
- 4.28** 'Necessary information' means the information required by the directed PSP in order to execute a payment from the customer's account to a payee and includes the name of the intended payee and the unique identifiers for the receiving account.
- 4.29** A reference to a customer providing information or an amendment to a directed PSP includes the provision of that information or amendment by someone on behalf of the customer where permitted under the appropriate method.
- 4.30** 'New payee' means a payee in respect of whom or which the directed PSP does not hold the necessary information.

¹⁶ Pay.UK is a company limited by guarantee, incorporated in England. Company Number 10872449. For more on its work on Confirmation of Payee, see: wearepay.uk/confirmation-of-payee

- 4.31** 'Established payee' means a payee in respect of whom or which the customer had previously provided the necessary information and that information is held at the time of the amendment by the directed PSP.
- 4.32** 'Unique identifier' has the same meaning as in the Payment Services Regulations 2017 (see regulation 2).
- 4.33** An account is a 'UK account' if it is provided by a PSP in the course of that PSP's business within the United Kingdom.
- 4.34** A transaction consists of a bulk payment when the payer is proposing to use it to make payments to more than one account.
- 4.35** An account is a 'Head Office Collection Account' if a PSP uses it to collect funds in aggregation before transferring them to the appropriate individual accounts of its customers.
- 4.36** An account is a 'suspense account' if it is an account used by a PSP to store funds temporarily for accounting purposes or where there is uncertainty as to where the funds should be sent.
- 4.37** An 'unattended payment routing' is where a PSP provides technical access to the FPS or CHAPS system for a customer to send payments through that system and consequently the PSP does not carry out the actions ordinarily required of a PSP that provides the sending account when executing an FPS or CHAPS payment.
- 4.38** 'Migration date' means the date the customer's account is migrated from the information technology platform that is no longer subject to infrastructure investment to another platform.

5 Application of Specific Direction 10

- 5.1** This direction applies to the directed PSPs.

6 Commencement and duration

- 6.1** This direction comes into force on 2 August 2019.
- 6.2** This direction continues in force until such time as it is varied or revoked by the PSR.

7 Citation

- 7.1** This direction may be cited as Specific Direction 10 (Confirmation of Payee).

8 Interpretation

- 8.1** The headings and titles used in this direction are for convenience and have no legal effect.
- 8.2** The Interpretation Act 1978 applies to this direction as if it were an Act of Parliament.
- 8.3** References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

Made on 1 August 2019

Louise Buckley

Interim Co-Managing Director,
The Payment Systems Regulator Limited

Glossary

Expression or abbreviation	Definition
Account number	A number that identifies the account of a customer. Often used together with a sort code to route payments.
Account servicing PSP	A payment service provider that provides and maintains a payment account for a payer and offers online access.
Agency PSP	An indirect PSP that has its own sort code provided by its indirect access provider.
Authorised push payment (APP) scam	A scam where someone intending to send funds to an account held by a legitimate recipient is manipulated by a fraudster into sending the funds to an account under the control of that fraudster, or a fraudster persuades someone to transfer funds to an account they control by persuading the payer that it is for a legitimate purpose.
BACS	The regulated payment system used to make payments directly from one bank account to another. Primarily used for Direct Debits and Direct Credits from organisations.
CHAPS	The UK's real-time, high-value regulated payment system, where payments are settled over the Bank of England's real-time gross settlement system.
Contingent Reimbursement Model Code	An industry code that sets out the standards expected of PSPs when an APP scam occurs.
Direct PSP	A payment service provider that is directly connected to the payment clearing infrastructure and that also settles its obligations from its account at the Bank of England.
Faster Payments Scheme (FPS)	The regulated payment system that provides near real-time payments as well as standing orders.
FSBRA	Financial Services (Banking Reform) Act 2013.
General Data Protection Regulation (GDPR)	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

Expression or abbreviation	Definition
Head Office Collection Account	An account that a PSP uses to collect funds in aggregation before transferring them to the appropriate individual accounts of its customers.
Indirect PSP	A payment service provider has indirect access to a payment system if it has a contractual arrangement with an indirect access provider to enable it to provide payment services to its customers using that payment system. An indirect PSP may be classified as either an agency or non-agency PSP.
Open Banking Implementation Entity (OBIE)	Created by the Competition and Markets Authority in 2016 to deliver Open Banking – an initiative that enables customers and small and medium-sized businesses to share their current account information securely with other third-party providers.
Payment initiation service provider	A payment service provider that provides an online service to initiate a payment order at the request of a user with respect to a payment account held at another PSP.
Payment service provider (PSP)	Any person who provides services to consumers or businesses, who are not participants in the system, for the purposes of enabling the transfer of funds using that payment system. This includes direct PSPs and indirect PSPs.
Roll number	A reference code with numbers and letters traditionally used by building societies instead of sort codes and account numbers.
Sort code	A six-digit number, usually written as three pairs of two digits, used to route payments in certain UK interbank payment systems.

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