

Responses to Consultation Paper PSR CP14/1 – A new regulatory framework for payment systems in the UK

Respondents - C to H

Respondent (<i>non-confidential responses</i>)
Campaign for Community Banking Services
Cardtronics
CHAPS Co
Cheque & Credit Clearing Company
Clydesdale Bank
CMS Payments Intelligence
Confederation of British Industry
Consumer Council for Northern Ireland
Co-operative Bank
CreDec
Credit Union Consultancy
Department for Work and Pensions
DVLA
Emerging Payments Association
Faster Payments Scheme Limited
Financial Services Consumer Panel
Global Payments UK
Government Digital Service
HMRC
HSBC Bank PLC

CAMPAIGN FOR COMMUNITY BANKING SERVICES

CAMPAIGN FOR COMMUNITY BANKING SERVICES

CAMPAIGN FOR COMMUNITY BANKING SERVICES

PAYMENT SYSTEMS REGULATOR

Consultation 13-11-14 to 12-1-15

Submission of the Campaign for Community Banking Services

BACKGROUND

CCBS is a coalition of 20 national bodies including those responsible for representing vulnerable individuals, small businesses and 'third sector' organisations: the sectors which are most disadvantaged by the escalating numbers of bank branch closures which remove convenient access and/or eliminate competitive choice of banking provider for branch dependent customers.

The sectors mentioned above, including branches of businesses and charities, routinely have need to deposit cash and cheques locally for transfer of value, not only to branches of the same bank but to other banks not physically present locally, for the group/head office accounts of a business or charity, in cases where the account holding bank has closed its local branch or where the bank of choice is not present locally, or for third party payments. To a lesser extent there can be need to withdraw denominated notes and coin locally from an account located elsewhere with a different bank.

'Challenger' banks, such as Metro, Handelsbanken UK, TSB and Williams & Glyn, have considerably smaller geographical footprints than the Big 4 so local branch access for their branch dependent customers to payments systems such as the Credit and Cheque Clearing is a necessity if those banks are to be considered as credible alternative banking providers. People move and change jobs, businesses relocate and add outlets: they should not have to change banks because of this just because their chosen bank lacks a local branch.

OBSERVATIONS ON CONSULTATION

Having read the PSR Consultation documents, and examined the detailed text and questions in Supplementary Paper 4 – Access to Payment Systems – CCBS is concerned that the access needs of end users are not addressed. Accordingly CCBS is not able to respond by answering the specific questions posed.

To achieve the Government's stated aims of making the payments systems benefit **all** end users and facilitate inclusiveness and competition, to stop at overcoming the technical and financial barriers to Direct and Indirect Access by PSPs to the various systems would be insufficient if SME and 'third sector' access to the credit (and cheque) clearing systems by customers of smaller banks principally with cash and cheque deposits were unable to use branches of the traditional dominant banks under Inter Bank Agency Agreements (IBAAs) on fair, reasonable and non-discriminatory terms.

It is noted that the decision of HMT on the final designation of systems to be regulated is not expected until after this consultation is closed by when a failure to include IBAAAs as a separate or complementary system will severely limit the benefit to be realised from regulation.

CAMPAIGN FOR COMMUNITY BANKING SERVICES

Inter Bank Agency Agreements (IBAAs)

Facilitate use of a local bank's counter by small business customers of other banks (established, 'challenger' and new entrant), thus creating and preserving competitive choice and helping to sustain existing branches and the communities they serve.

IBAAs clearly fit the 2013 Act Definition as they enable the transfer of funds by persons and would be covered by the Act which specifically "includes a system which is designed to facilitate the transfer of funds using another payment system" in this case the Credit Clearing and Cheque Clearing. That volumes using IBAAs are currently modest is largely because the industry has actively resisted or ignored attempts by various official and independent bodies (the OFT recorded only 25% awareness amongst small businesses which could benefit) to make operational improvements and increase awareness (see below) but also because the networks of the dominant banks were historically of similar size and spread. The latter situation is rapidly changing with the uneven escalation of branch closures by the Big 4, leading to currently 900 communities with one bank and no choice and 400 with only two banks and these communities today are much larger in population and economic terms than heretofore as the 1300 previously banked smaller ones have already lost all bank presence. Even more importantly, we have potentially credible challenger banks for the first time whose dependence on IBAAs, if improved and made available on "fair, reasonable and non-discriminatory terms "as sought unsuccessfully by the Competition Commission in 2002, should increase substantially if they are to become competitors of significance, for the SME market especially, and then the criteria of volume and serious consequences in the event of failure will be fully met.

The regulator should have an important role in achieving that objective as it is apparent the established banks, which effectively control the terms of entry, operation and pricing of IBAAs, will not take the required action voluntarily having failed to implement improvements to the operation, awareness and pricing of IBAAs despite commitments to the OFT in 2003 to do so and repeated calls to do so from independent bodies before and since.

It is noted that personal customers' use of an ATM belonging to a bank other than their own, under the LINK scheme, is regarded as within the scope of the regulator so it seems illogical not to include business and 'third sector' use, under the IBAA scheme, of a branch belonging to a bank other than the customer's own bank.

Derek French FCIB

Director

Campaign for Community Banking Services

www.communitybanking.org.uk

30 December 2014

CARDTRONICS

CARDTRONICS

Dear PSR Team,

Cardtronics welcomes the creation of the Payment Systems Regulator and looks forward to working with the PSR team to support you in achieving your objectives. Our response to your consultation process is written with a strong focus on ATMs as a payment system and how your various proposals could work within the ATM system.

Cardtronics' responses are set out below are given within this overall context.

1. Detailed response to consultation questions

Question in relation to our proposed regulatory approach (see *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1:	<p>Do you agree with our regulatory approach?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>Overall we agree with the regulatory approach around industry strategy. However, we request that strategy is also reviewed within a payment system, and specifically within the ATM system. There are some unique strategic questions that need a proper airing within our system and these could get lost in a high level strategy review across all systems.</p> <p>Further, we support the PSR's initiative to promote those principles that set behavioural standards for industry participants with the specific aim to promote an innovative, sustainable and governed market whereby participants are able to positively contribute and influence.</p> <p>We would highlight as a wider comment that there is language within different payment systems which would have very different</p>
---------	---	---

		<p>meaning, something which has been an issue with PSD2 where “interchange” and “charging” have very different meanings between point of sale vs ATM, hence careful use of language is key.</p> <p>We endorse the approach on governance for the reasons mentioned above and would welcome an early and specific focus on the LINK scheme.</p> <p>We encourage you to state as a fundamental principle that cash is a critically important part of the payments landscape and that it is an objective of the PSR that cash continues to a vital and convenient consumer payment alternative.</p>
--	--	--

Questions in relation to our proposed approach to payments industry strategy (see *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

<p>SP2-Q1:</p>	<p>Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council’s or a successor body’s role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in <i>Supporting Paper 2 - Payments industry strategy and areas for collaboration</i>?</p> <p>If you disagree with our proposed approach, please give your reasons</p>	<p>A payments strategy forum is a good idea, but should also exist at an individual system level as well as the industry level. LINK has no such mechanism for developing ATM and cash access strategy over time.</p> <p>We strongly encourage appropriate representation on the strategy forum and Cardtronics hereby requests participation in this forum. We are concerned to see how this forum might work given the number of stakeholders. The PSR needs to give thought to making this forum effective, e.g. by setting up sector specific forums first, or by setting up several smaller working groups that can come together in due course.</p> <p>While, it is appropriate to have LINK represented in this Forum, under its current ‘issuer’ dominated structure, we do not believe LINK should be the sole representative of the ATM industry.</p> <p>It is also important to ensure that service users, consumers in particular, are heard on this forum.</p>
-----------------------	--	---

SP2-Q2:	<p>Do you have any comments on the design of the Payments Strategy Forum?</p> <p>In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.</p>	<p>We strongly suggest sub-forums are established for different sectors, in particular establishing sub-forums for the ATM sector versus the Point of Sale sector. Naturally, the payment strategies for these two sectors will differ widely.</p>
----------------	--	--

SP2-Q3:	<p>Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?</p>	<p>Given the differing governance, ownership and operating structures of the interbank (LINK) and card payment systems (MasterCard and Visa), we would recommend a forum designed to specifically address the differing strategies for ATM. We note as well that all of these participants are involved in the UK ATM space (LINK as the domestic payments provider, MC and Visa as the provider for international services, though both MC and Visa have the future possibility to address the domestic space as well). Providing a co-operative ATM forum between the participants would encourage further innovation and collaboration for this specific sector.</p>
----------------	---	---

<p>SP2-Q4:</p>	<p>Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider?</p> <p>If yes, please provide a description of why the additional themes are important to you.</p>	<p>A critical additional theme will be how strategy evolution is encouraged and linked to governance evolution. A present, the governance limitations at the Scheme level will effectively limit the effectiveness of strategy development and innovation.</p>
-----------------------	--	--

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

<p>SP3-Q1:</p>	<p>Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>Yes we agree with this proposal. Again as mentioned in section 1, we have recently observed behaviours and rule changes that are not in the interest of service users. This needs to be controlled going forwards.</p>
<p>SP3-Q2:</p>	<p>Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users?</p> <p>Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?</p>	<p>We agree with the proposal. We would also encourage system members to have to justify their positions when making decisions that are at odds with service users. It would be interesting to do this retrospectively for the screen flow rule change that was forced through in the LINK scheme in September 2014.</p>

<p>SP3-Q3:</p>	<p>Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>We agree with the proposal on systems and infrastructure providers. However, we believe that the concept of conflict of interest should be broadened out to within a scheme to ensure that there are necessary checks and balances introduced to ensure that certain influential members don't block innovation, framework progression or governance enhancements designed at improving the system overall or making it more sustainable. This is a live issue within the LINK scheme.</p>
-----------------------	--	---

<p>SP3-Q4:</p>	<p>Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>We don't agree with your proposed approach as we believe there are significant conflicts of interest within the LINK scheme itself that need to be addressed and should be brought into scope.</p>
<p>SP3-Q5:</p>	<p>Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?</p>	<p>Agree</p>

SP3-Q6:	<p>Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	Strongly agree. We also believe that draft minutes should be made available in the event of a dispute rather than having to wait 3 months for officially approved minutes.
SP3-Q7:	<p>Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?</p>	Agree
SP3-Q8:	<p>Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	Agree

Questions in relation to our proposed approach to access to payment systems (see *Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1:	<p>Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)?</p> <p>If you disagree with our proposed approach, please give your reasons</p>	Agree
SP4-Q2:	<p>Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons</p>	<p>We agree with the reporting rule. However, we strongly request that this rule is synchronised with reporting requirements within LINK so that we do an annual exercise once rather than twice.</p>
SP4-Q3:	<p>Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)?</p> <p>If you disagree with our proposed approach, please give your reasons</p>	Agree
SP4-Q4:	<p>Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)?</p> <p>Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?</p>	Nothing to add

SP4-Q5:	<p>Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.</p>	Agree
SP4-Q6:	<p>Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	Approach looks sensible
SP4-Q7:	<p>Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR?</p> <p>Or do you consider that we should take a more prescriptive approach at this time?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	Approach looks sensible

SP4-Q8:	<p>Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions?</p> <p>Or do you consider that we should take a more prescriptive approach at this time?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	Approach looks sensible
SP4-Q9:	<p>Do you agree with the costs and benefits identified for our proposed direction on Indirect Access?</p> <p>Can you provide any data that might further inform our analysis of the likely impact of our directions?</p>	Approach looks sensible

Question in relation to our proposed approach in relation to interchange fees (see *Supporting Paper 5: Interchange fees* for more details)

SP5-Q1:	<p>Are there other matters regarding interchange fees that you think we should consider at this stage?</p>	<p>Yes there are other matters on interchange that should be considered. Whilst the definition in annex 1 is broader, the definition in paragraph 158 of the consultation document is too narrow. LINK interchange must be brought into scope. The potential impact of LINK interchange on service users over time needs to be understood. We have concerns about sustainability of the current structure and strongly believe that the PSR should become a competent authority in this area. We</p>
---------	---	--

		would welcome an opportunity to discuss these concerns in the near future in some detail
--	--	--

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see *Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1:	<p>Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>We agree with these principles but believe they should be broadened. See SP6-q2 below</p> <p>We also want to ensure that cash access is considered a key part of a world class payment system and that the focus is not solely on technologies such as electronic or mobile payments.</p>
SP6-Q2:	<p>Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants?</p> <p>If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.</p> <p>November 2014 PSR CP14/1 Annex 4 A new regulatory framework for payment systems in the UK 4</p>	<p>We propose 2 additional principles: service users - the need for consumer needs and desires to be taken into account as a core principle, not only for innovation but also for sustainability of existing systems and infrastructure. Also timely resolution of key issues as a core principle - systems can often be slow to evolve and adapt and the PSR needs to ensure this improves over time.</p>

<p>SP6-Q3:</p>	<p>Do you agree with our proposed approach that our PSR Principle on Financial Prudence should apply to Operators and Central Infrastructure Providers?</p> <p>If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.</p>	<p>Agree, though reflecting different economic models and scale between different participants, therefore financial prudence for a non-bank Independent Operator should be tailored accordingly compared to financial prudence for a scale issuer.</p>
<p>SP6-Q4:</p>	<p>Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.</p>	<p>Yes - see SP6-q2 above</p>

SP6-Q5:	<p>Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles?</p> <p>Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?</p>	<p>See earlier comments on September LINK rule change in face of service user impact. (SP3-Q2)</p>
SP6-Q6:	<p>Do you agree with our proposed approach for our Objectives Guidance?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>Agree in principle, though we believe that the PSR should be able to mandate that a system proceeds to mediation if necessary.</p>
SP6-Q7:	<p>Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>On prioritisation, we want to ensure that there is a clear linkage to principles and objectives, rather than a simple monetary materiality threshold set. This would ensure that an issue with a significant potential service user impact, for example, gets appropriately prioritised.</p>

<p>SP6-Q8:</p>	<p>Do you agree with our proposed approach for our Powers & Procedures Guide?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>Yes we agree. We believe that direct intervention will be required. We also encourage the PSR to ensure that it understands the broader context before invoking powers, eg the ATM sector has certain protocols for upgrading ATM infrastructure over time to ensure practical advancement is achieved in a realistic timeframe.</p>
-----------------------	---	---

<p>SP6-Q9:</p>	<p>Do you agree with our proposed approach for our dispute resolution and applications procedures?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>We see dispute resolution as a critical area for the PSR. Any intervention and resolution needs to be timely and will be central to the overall impact that the PSR achieves.</p>
<p>SP6-Q10:</p>	<p>Do you agree with our proposed approach for our Super-complaints Guidance?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>We would like to understand more about HMT's definition of representative bodies. We believe, in principle, that a complaint where the sustainability of a payment system is in doubt should be treated as a super complaint.</p>
<p>SP6-Q11:</p>	<p>Do you agree with our proposed approach to setting penalties?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>We believe, specifically in the context of an ATM operator, that a penalty calculated based on revenue generated rather than on the value of funds transferred is more appropriate. We also believe fines should not be imposed unless the violator continues the transgression after the PSR has advised it of the violation with an appropriate timeframe to remedy the issue, except in circumstances where the PSR finds the original violation was wilful. We would</p>

		also request that there be consideration made to ensure that there is an appeal process and believe any penalty should be proportional to the damages caused by the conduct.
--	--	--

SP6-Q12:	Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?	We would request the PSR focus on harm done to the consumer or to other industry participants plus whether the violation was wilful. We believe not-for-profits should fall under the same compliance requirements as for profits.
SP6-Q13:	What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?	We believe there is an argument for penalties to be tiered and also possibly based on the category of participant. We believe that the premise is a penalty will be applied for wilful wrongdoing and that the penalty should be proportional to the damage caused, with 10% of revenues directly derived from the non-compliant event as a maximum.

SP6-Q14:	<p>Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties?</p> <p>If you disagree with our proposed approach, please give your reasons.</p>	<p>While we generally agree to the proposed approach, we also recommend that the PSR give careful consideration to the process by which participants are timely and fully informed of any alleged violation and are given ample opportunity to contest or appeal any enforcement decision.</p>
----------	---	--

Yours Sincerely,

Cardtronics United Kingdom

CHAPS CO

CHAPS CO

12th January 2015

T 02032178553
enquiries@chapsco.co.uk

To Payments Systems Regulator
Consultation response team
25 The North Colonnade
Canary Wharf
London E14 5HS

Via email only

PSRconsultations@psr.org.uk

From Legal & Regulatory Affairs Unit
CHAPS Co

CHAPS CLEARING COMPANY (CHAPS CO) RESPONSE TO PSR CONSULTATION ON “A NEW REGULATORY FRAMEWORK FOR PAYMENT SYSTEMS IN THE UK” – CP 14/1

CHAPS Clearing Company Ltd (CHAPS Co or the Company) welcomes the opportunity to respond to the above PSR Consultation. The views in this response are those of both Company Management and the Board of Directors of CHAPS Co (who have endorsed this paper prior to submittal to the PSR).

CHAPS is the UK electronic Payment System for high value and systemically important transactions which settle across the Bank of England's Real Time Gross Settlement (RTGS) system, thereby achieving irrevocable finality at the point of settlement.¹ Daily average settlement values exceed £280 billion with a direct participant base of twenty-one major financial institutions whom, in turn, service over 5,000 other financial institutions on an indirect basis (primarily via international Correspondent Banking relationships). Most of the daily value processed by CHAPS represents wholesale interbank transactions where CHAPS acts as the portal through which international GBP flows take place. As a Payment System, it would be most recognisable within the UK as the mechanism by which house purchases are completed via conveyancing solicitors, although this represents only a fractional percentage of the total daily value processed by the system.

¹ Finality of settlement is underpinned by CHAPS' designation as a "system" by the Bank of England, as the relevant designating authority under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (the "SFRs"), which implement the EU Settlement Finality Directive 98/26/EC in the United Kingdom.

CHAPS Co is a Recognised System under the 2009 Banking Act² and is thereby supervised by the Bank of England in its statutory Payment System Oversight capacity. At a governance level, CHAPS Co operates as a standalone Company which is limited by shares. These are issued on an equal basis to each of the financial institutions which directly participate in the CHAPS system. CHAPS Co's Board is comprised of an Independent Chairman, two Independent Directors and Participant Directors nominated by their respective shareholding institution (having first been considered by the Appointments and Remuneration Committee which is Chaired by an Independent Director).

For ease of reference, we have included our specific responses in tabular format as immediately below. Should there be any queries on the content of this response, please can they be directed in the first instance to the enquiries@chapsco.co.uk.

² Recognition Order issued by HM Treasury on 5th January 2010.

Reference	Question	CHAPS Co response
SP1-Q1	Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.	<p>Overall, CHAPS Co agrees with the detail backing the proposed Regulatory approach (as set out in Section E of Supporting Paper 1). However, in addition to some specific views which are set out in our responses to the later questions, we would also seek to remind the PSR of the following two points made in earlier Consultation Responses³:</p> <ul style="list-style-type: none"> • Unlike the other entities proposed by HMT for designation, CHAPS Co may not be in a position to execute against requirements levied on it if the Bank of England is not in a position to make any changes at a central level that would be required to facilitate these. • Parties should remain mindful of unintended consequence via the application of rules affecting Indirect Access (which are aimed at domestic agency arrangements) but which could affect international correspondent Banking arrangements.
SP2-Q1	Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining	Yes, CHAPS Co supports Option 1 (the creation of the Payments Strategy Forum) given the broader constituent base that would be represented there (including the Payment System Operators) and its particular focus “on areas where strategic development requires the collective action of stakeholders”. The example provided regarding the

³ Consultation on “Opening up UK Payments” (March 2013) and the HMT consultation on designation of payment systems for regulation by the Payment Systems Regulator (November 2014).

Reference	Question	CHAPS Co response
	the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in <i>Supporting Paper 2: Payments industry strategy and areas for collaboration</i> ? If you disagree with our proposed approach, please give your reasons.	adoption of common standards is one we have highlighted in meetings for over two years.
SP2-Q2	Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.	CHAPS broadly supports the design of the forum as set out in paragraph 2.110 of Supporting Paper 2. In particular, we welcome the intended presence of the Payment System Operators and the inclusion of end user representation. Noting that a range of PSPs would also be present, we would suggest that, in considering the "breadth" of the range, consideration be given to the type of services they provide and, noting the HMT Designation Consultation document's focus on both Commercial and Retail, would suggest that this be included as part of this consideration.
SP2-Q3	Do you have any comments on our indicative model for how the Payments Strategy Forum could	Noting the likely size of the Forum and its meeting frequency, we feel that it would be unlikely that matters would be discussed in low level detail at these meetings. As such, we would emphasise the point made in paragraph 2.89 in Supporting Paper 2 that "a

Reference	Question	CHAPS Co response
	operate in practice?	<p>mechanism should exist to develop proposals at a more detailed level through, for example, Working Groups". We believe the processes around the "underlying mechanism" will be key to the successful development of wider Strategy and, as such, these should form part of the broader governance of the Forum thereby ensuring that any subordinated Working Groups are set up in a manner that reflects the structure of the Forum.</p> <p>As highlighted at the PSR's Roundtable meeting on Strategy held on 30 October 2014, to enable successful strategy to be set, this needs to be done in the context of other "inputs" and change which is being undertaken by the Banking industry (on either a voluntary or mandated basis). Examples would include the work being "sponsored" via the Government Coordination Committee (GCC) on Richer Data and Identity Assurance, views and concerns being expressed via Parliament on areas such as Account Number Portability and Simplification and substantive change such as Ring-Fencing being introduced via Regulation. Collectively, these clearly highlight the need for effective coordination and communication process between the Forum and other bodies whose views might otherwise impact upon its ability to operate effectively. Part could be achieved by bodies such as the GCC falling (as a Working Group) under the remit of the Strategy forum whilst others would be dependent upon strong communication channels being put in place.</p>

Reference	Question	CHAPS Co response
SP2-Q4	Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.	<p>Yes, we believe that there are additional infrastructure-related themes that both the PSR and the Payments Strategy Forum should consider and that these themes fall into two distinct categories.</p> <p>The first category relates to critical 'foundational elements' that define 'world class infrastructure', such as a Target Architecture Model, Core Infrastructure Design Principles and Industry Best Practices for Sterling payments. It is vital to define 'what good looks like' so that a clear goal and direction is set to which strategy can be agreed to deliver.</p> <p>The second category is a list of additional candidate themes that we believe will contribute to a world-class payment system as identified and defined in the foundational elements. These are payment system resilience, payment user identification, payment processing compliance, payment message security, payment instruction routing, payment message tracking and payment remittance advice. These themes will inter alia increase resilience, reduce cost, protect users and enhance the payment experience. They will also stimulate greater innovation.</p>
SP3-Q1	Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there	Before responding directly to the question, CHAPS Co would like to point out the following distinction with respect to the formal appointment of Directors (and as a clarification to the PSR statement contained on page 9 of Supporting Paper 3):

Reference	Question	CHAPS Co response
	is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.	<p>Direct Participants <u>nominate</u> Directors who then go through a formal appointment process which includes an interview with the Independent Chair of the Appointments/Remuneration Committee, formal consideration by the Committee using guidelines agreed by the CHAPS Co Board and finally approval by the Board itself.</p> <p>In direct response to the question, CHAPS Co broadly agrees with the proposed direction. Our Participation base is widening as a result of de-tiering and the Company continues to explore broadening our participation base even further at both Board and shareholder level.</p> <p>CHAPS Co already has an Affiliate Group to represent the interests of service-users. We note that under s.68(1) FSBRA, service-user means those who use, or are likely to use, services provided by payment systems. To this end, these are the types of constituents we would expect to join our Affiliate Group. Although the Affiliate Group has only been set up recently and therefore has only had the opportunity to meet twice, its views are accommodated within the CHAPS Co's formal governance structure via the CHAPS Business & Strategy Committee. Given CHAPS Co recognition of the needs of service users, we therefore expect the Affiliate Group to develop accordingly to reflect</p>

Reference	Question	CHAPS Co response
		<p>this view both at Committee and Board level.</p> <p>Additionally, a Board composition project will be undertaken in 2015 to explore ways in which the CHAPS Co Board can be restructured to better reflect the interests of all stakeholders including Indirect Participants and other service users.</p>
SP3-Q2	<p>Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users?</p> <p>Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?</p>	<p>CHAPS Co agrees with the costs and benefits identified for the PSR's proposed direction on Operators to ensure there is appropriate representation of the interests of service- users. With respect to CHAPS Co, the addition of another Non-Executive Director would incur a cost in line with the figure quoted by PwC.</p>
SP3-Q3	<p>Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not</p>	<p>CHAPS Co agrees with the proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system.</p> <p>At present the Bank of England has an observer on the CHAPS Co Board. He is from the RTGS section of the Bank. It may be more appropriate for the Bank of England</p>

Reference	Question	CHAPS Co response
	simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.	observer to be from the financial stability area.
SP3-Q4	Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.	CHAPS Co agrees with the PSR's proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders. CHAPS Co has a conflicts of interest policy in place and the issue is a standing item on all Board and Committee meeting agendas.
SP3-Q5	Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a	CHAPS Co agrees with the costs and benefits identified for the PSR's proposed direction requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system. Under the existing CHAPS Co Conflicts of Interest Policy, the above scenario would be

Reference	Question	CHAPS Co response
	director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?	identified and considered to be an unacceptable conflict.
SP3-Q6	Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.	<p>CHAPS Co agrees with the proposed direction to require all Operators to publish board minutes in a timely manner and in particular, for the published minutes to include a record of votes and reasons for decisions made.</p> <p>The Supporting Paper acknowledges that sensitive information should be redacted from the published minutes and we would expect guidelines to be introduced setting out the PSR's recommended approach. We would suggest that a common redaction policy be developed with the other Operators, in agreement with the Bank of England.</p>
SP3-Q7	Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely	Whilst CHAPS Co agrees with the benefits identified in the PSR's proposed direction requiring all Operators to publish board minutes in a timely manner, we believe that the costs associated with the proposal may be more than minimal in terms of resource allocation. This is due to the level of governance work and resource that may be

Reference	Question	CHAPS Co response
	manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?	required in relation to the determination of appropriately redacted minutes.
SP3-Q8	Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.	CHAPS Co served notice under the terms of the Generic Contract with Payments Council on 20 October. As such, we feel the publication of the Consultation Document will have further assisted in terms of drawing this process to an expedient conclusion. At this point in time, we therefore do not see the need to issue a Direction to Payments Council.
SP4-Q1	Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.	<p>Yes, CHAPS Co supports the introduction of an Access Rule aligned with Principle 18. As highlighted in Supporting Paper 4, CHAPS is already required (under this Principle) to have <i>“objective, risk-based and publicly disclosed Access Requirements, which permit fair and open access”</i> and, as such, were pleased to note that no specific concerns with respect to accessing CHAPS were raised although given the systemic importance of the system and high degree of certainty regarding operational resilience, there may be entities who at any given time are unable to meet minimum performance standards.</p> <p>Furthermore, with the introduction of Risk Based Categorised Participation in July 2014 and the planned introduction in Q1 2015 of revised rules which carries different risk-</p>

Reference	Question	CHAPS Co response
		<p>based obligations depending upon which Category a Direct Participant is in, CHAPS believes it has already gone a long way to satisfying the aspiration behind this planned Rule and will continue to operate on the basis that "One size does not fit all". CHAPS has also taken steps around its funding model to ensure equitable treatment of those that Participate in the System, with, from January 2015, an annual shareholder charge being levied to cover the core baseline operational costs of the company and a straightforward volume based Participation charge.</p> <p>The only caveat we would flag is from the Stability Perspective that the high value nature of the CHAPS system means our access criteria should not drop below a certain level and that, for those Participants that carry substantive value in the system, these requirements may need to be greater in certain areas.</p>
SP4-Q2	Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you	CHAPS Co is broadly supportive of this proposal although CHAPS Co strongly believes that the proposed Reporting Rule should align with those reporting requirements to which CHAPS Co is already obligated to fulfil pursuant to supervision by the Bank of England, and it is on this basis that CHAPS Co broadly agrees with this proposal.

Reference	Question	CHAPS Co response
	disagree with our proposed approach, please give your reasons.	
SP4-Q3	Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.	<p>In line with Principle 18 of the CPMI-IOSCO Principles, CHAPS Co supports this proposal and already publicly publishes the CHAPS payment system access requirements which can be found at:</p> <p>http://www.chapsco.co.uk/participation/joining_chaps/</p> <p>as well as within the CHAPS Rules, found at:</p> <p>http://www.chapsco.co.uk/files/chaps/governance_documents/chaps_co_rules.pdf</p>
SP4-Q4	Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?	<p>We agree with the benefits identified with the Access package. With respect to the costs, we note the intent for an annual reporting cycle and that the PSR will work with the Operators to ensure their reporting meets the PSR's requirements. To this end, we would point out that CHAPS already publishes (in April each year) long and short form compliance statements against the CPMI IOSCO Principles and their underlying "considerations". We would seek to use this same process for Access Rule reporting and would work with the PSR to ensure that the scope of our response to Principle 18 covers all relevant aspects of this.</p>
SP4-Q5	Do you agree with our proposed	Yes, we support this suggestion. The only caveat we would flag is to ensure that the

Reference	Question	CHAPS Co response
	direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.	information is published in a consistent fashion across the Sponsor Banks.
SP4-Q6	Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.	<p>We are uncertain of the full benefits that an industry developed Information Hub would provide unless its content and participation are well defined and that it is well publicised where the Information is published.</p> <p>We would note that in 4.293, the obligation for Operators' Access Requirements to be publicly disclosed via the Hub would, in essence, form a duplication of that information which some Operators (including CHAPS) are already required to provide under the CPMI IOSCO Principles.</p>
SP4-Q7	Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should	Broadly speaking, CHAPS is content with the development (by industry) of a Sponsor Bank Code of Conduct. However, we would draw the distinction between Indirect Domestic Agency arrangements and International Indirect Correspondent Banking arrangements (where the ability to service Sterling denominated Payment Instructions may form just one aspect of the broader Correspondent arrangements). We would therefore suggest that the Sponsor Bank Code of Conduct be restricted to Indirect Access for domestic agency arrangements.

Reference	Question	CHAPS Co response
	take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.	We believe a further opportunity (on behalf of the Service User) arises via the Code of Conduct if this was to be reciprocal on the Indirect Participants. As described, the Code of Conduct appears to be a one-way flow of obligations from Sponsor Bank to Indirect Participants. Given Indirect Participants are one-step removed from the Payment Systems, they are not bound by the rules of the Payment System (unless the Sponsor Bank attempts to make this happen). As such, it is possible that a Service User's experience of accessing one or other Payment System may differ depending upon whether they are accessing it via a Direct or Indirect Participant. A reciprocal strengthening of obligations between Direct and Indirect Participants would be a strong step towards the provision of consistent service at a Service User level.
SP4-Q8	Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach	Yes, CHAPS Co fully supports the PSR leaving the development of Technical Access solutions to the market. The two major technical components of the core CHAPS System are: <ol style="list-style-type: none"> 1. The settlement accounting system along with its various related systems (collectively known as 'the RTGS system') within the Bank of England; and 2. The globally standardised and accepted SWIFT messaging system.

Reference	Question	CHAPS Co response
	at this time? If you disagree with our proposed approach, please give your reasons.	<p>The RTGS system is statutorily out of scope, but does require the use of specific technical components to both connect to it and to interact with it. It also requires the use of the SWIFT messaging system to interact with it. The SWIFT messaging system is an internationally accepted open messaging standard, which is used globally in one form or another across the financial services industry and many corporate sectors.</p> <p>Access to the SWIFT messaging system does require the use of specific technical components according to a set of openly published standards. Critically, the use of solutions purchased and provided by SWIFT is <u>not</u> specifically required and it is important to note that SWIFT is not the leading supplier of many of these technical solutions to the market.</p> <p>Participants are therefore free to choose any accredited vendor solution to meet their technical access needs according to their own technical and sourcing strategy.</p> <p>The publication of standards to which anyone may develop market solutions, as well as the accreditation of such vendors, is part of SWIFT's 'Multi-Vendor Programme' (MVP). MVP therefore encourages and enables a competitive market for the provision of the technical components required to connect to and process SWIFT messages.</p>

Reference	Question	CHAPS Co response
		<p>CHAPS Co does not require the use of any specific hardware or software vendor within its scheme rules. The focus of CHAPS is primarily to ensure that the financial stability, operational performance and risk management requirements of the CHAPS System are achieved.</p> <p>Please note that CHAPS Co and SWIFT specifically require diversity of supplier as part of their operational risk management strategies. This requirement contributes to an innovative and competitive supply chain for technical access solutions.</p>
SP4-Q9	Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?	CHAPS is not in a position to offer a view on this question.
SP5-Q1	Are there other matters regarding interchange fees that you think we should consider at this stage?	CHAPS is not in a position to offer a view on this question.
SP6-Q1	Do you agree with our three proposed high-level PSR Principles	CHAPS agrees with the proposed high level approach as further outlined in Supporting Paper 6. In particular, we support the PSR's principle based approach as it lends

Reference	Question	CHAPS Co response
	on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.	support to the PSR's acknowledgement that not all payments systems and operators are the same ⁴ . With respect to the Principle 1 (Relations with Regulators), we welcome the PSR's intent to trust affected parties to use sound business judgement when notifying the PSR of changes or developments. We feel that this will encourage a more open and proactive engagement which does not necessitate prescriptive guidance. With respect to Principle 2 (Compliance), as noted in your paper you accept that PSPs are already subject to similar principles under existing domestic statute and international guidance – any approach that seeks to retain consistency among well-established statute and guidance is welcomed. With respect to Principle 3 (Financial Prudence), the PSR has noted that CHAPS, along with FPS and Bacs, are already under an obligation to comply with similar principles as outlined in CPMI-IOSCO Principle 15.
SP6-Q2	Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and	On the basis that those PSPs identified already have to observe or comply with similar principles as laid out by statute or international guidance in relation to Relations and Compliance, CHAPS agrees that the same participants should also be included within the remit of the PSR's supervision. This is on the understanding that the evidence used to support compliance with the PSR's Principles is not expected to be different or inconsistent with that currently supplied to existing regulators.

⁴ Most recently expressed during the PSR' roundtable event held on 9th December 2014.

Reference	Question	CHAPS Co response
	explain which categories of participants you consider they should apply to and why.	
SP6-Q3	<p>Do you agree with our proposed approach that our PSR Principle on Financial Prudence should apply to Operators and Central Infrastructure Providers?</p> <p>If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.</p>	<p>Similar to our response at SP6-Q2, on the basis that operators such as CHAPS already have to observe or comply with similar principles as laid out by statute or international guidance in relation to Relations and Compliance, CHAPS is supportive of the PSR's position. Again this is on the understanding that the evidence used to support compliance with the PSR's Principles is not expected to be different or inconsistent with that currently supplied to existing regulators.</p>
SP6-Q4	<p>Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of</p>	<p>As above, provided that the evidence used to support compliance with any proposed new PSR's Principles is not expected to be different or inconsistent with that currently supplied to existing regulators, CHAPS does not see any issue with adoption of those additional Principles.</p> <p>We would suggest that before adopting any new Principles, the PSR:</p>

Reference	Question	CHAPS Co response
	interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.	<ul style="list-style-type: none"> (i) Review how implementation and compliance of their proposed initial 3 Principles is carried out and; (ii) Ensure that a similar degree of fact finding is carried out to understand similar compliance already carried out pursuant to CPMI-IOSCO standards and other related guidelines and statutes.
SP6-Q5	Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?	CHAPS is broadly in agreement with the anticipated costs and benefits as identified in the PSR's proposed high level principles. As the PSR has identified, it is difficult to quantify costs and benefits (particularly pre-implementation) and given the long term nature of the objectives, some reasonable amount of time will have to pass before the industry can have a better idea. The cost/benefit will also be dependent on how quickly the PSR expect results and whether they introduce requirements over and above what has already been set out in previous consultations and engagement events.
SP6-Q6	Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our	CHAPS agrees with any measure which is designed to provide clarity and certainty with respect to desired outcomes and compliance, particular if such guidance is exercised consistently and fairly. We particularly welcome the PSR's acknowledgement of the

Reference	Question	CHAPS Co response
	proposed approach, please give your reasons.	importance of maintaining the stability and confidence in the UK financial system as that is directly compatible with similar obligations fulfilled pursuant to CHAPS' obligations to the Bank of England. We are also of the opinion that collaboration between participants can positively improve the outcomes and experiences for all service users as evidenced by previous collaborative issues e.g. current account switching service.
SP6-Q7	Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.	It is clear to CHAPS that the PSR's proposed approach with respect to an Administrative Priority Framework complements their principles-based approach to regulation, particularly as decisions will be made "on a case by case basis" i.e. there is already an acceptance that one approach may not be suitable for all. To this end, and in line with the PSR's proposed Objectives Guidance, we would expect the PSR to update their Objectives Guidance to reflect how they have made decisions with respect to investigations, applications, complaints, etc.
SP6-Q8	Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.	CHAPS accepts that the proposed Powers and Procedures Guide has been developed prior to the operational launch of the PSR. To this end, we would expect such guidance to be reviewed and augmented where necessary in an open, transparent and timely manner.
SP6-Q9	Do you agree with our proposed approach for our dispute resolution	CHAPS agrees with the broad approach that the PSR appears to be taking with respect to dispute resolution and applications procedures. In particular, we welcome any

Reference	Question	CHAPS Co response
	and applications procedures? If you disagree with our proposed approach, please give your reasons.	approach that allows for the possibility of fact gathering, dialogue and further discussion to take place before any enforcement action is contemplated or decided.
SP6-Q10	Do you agree with our proposed approach for our Super-complaints Guidance? If you disagree with our proposed approach, please give your reasons.	As above, CHAPS agrees with any approach that allows for the possibility of fact gathering, dialogue and further discussion, with a focus on taking an evidence-based approach.
SP6-Q11	Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.	CHAPS welcomes the PSR's intent to liaise with the Bank of England with respect to any potential decision to impose a penalty (with respect to a participant or a payment system operator).
SP6-Q12	Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred	When considering participants organised as not-for-profit entities, CHAPS believes that any approach taken by the PSR should be practical, simple, clear and non-complex. CHAPS would need to understand how taking account of the value of funds transferred would be relevant to any penalty imposed before commenting further. For example, if using metrics such as "funds transferred" in relation to any particular participant, we would expect the regulator to consider any unintended consequences of "netting", however, we are not in a position to comment further at this point.

Reference	Question	CHAPS Co response
	through the relevant system and relating to that participant in such a case)?	
SP6-Q13	What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?	CHAPS' understanding is that at present, there is no limit to the maximum penalty that can be imposed on a participant. An upper limit would, in our opinion, provide certainty as to the order of magnitude of any potential penalty. CHAPS would support differentiating any upper limits that might be imposed according to category of participant as this would appear to be more in line with the PSR's fair and proportionate approach to regulation.
SP6-Q14	Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.	CHAPS welcomes any approach that allows for alternative approaches that will lead to the desired result. Given that this approach is largely based on the comparable FCA approach, we would expect it to be exercised consistently and to be reviewed on a regular basis, with appropriate input from all stakeholders.

CHEQUE & CREDIT CLEARING COMPANY

CHEQUE & CREDIT CLEARING COMPANY



09 January 2015

Direct Line 020-3217-8363

nicky.wheeler@chequeandcredit.co.uk

Payment Systems Regulator
Consultation response team
25 The North Colonnade
Canary Wharf
London E14 5HS

Dear Sirs

C&CCC RESPONSE TO PSR CONSULTATION “A NEW REGULATORY FRAMEWORK FOR PAYMENT SYSTEMS IN THE UK”

The Cheque and Credit Clearing Company welcome the opportunity to respond to the Payment Systems Regulator’s consultation on “A new regulatory framework for payment systems in the UK”.

Background

The Cheque and Credit Clearing Company (C&CCC) was established in 1985 and from that time until the present day it is proud of its record in:

- Providing members with the central payment system services for the exchange and settlement of cheques and credits;
- Managing the operational processes of the central payment system services;
- Determining the rules, standards, and procedures required to maintain the integrity of the clearings, including the criteria for joining the clearings and ensuring compliance with those rules;
- Engaging with the full range of stakeholders which includes consumers and businesses that use cheques, banks that offer cheque clearing services, cheque processors, cheque printers and other suppliers, as well as regulators, trade associations and other payment schemes.

Our Objectives are to:

- ensure that cheques and credits remain a viable, secure and efficient choice of payment for all users, so we will:
 - promote innovation and competition in payment choice by driving improvements in processing, service and efficiency
 - provide a trusted centre of excellence for anyone with an interest in cheques or credits



Achievement

The Company has an excellent record of achievement; the most recent being the introduction in 2007 of the 2-4-6 customer promises and certainty for cheque beneficiaries. For this major project we worked closely with OFT Payments Systems Task Force to deliver, on time and within budget, a complex and innovative programme of changes to greatly improve the customer proposition. The Company enjoyed a positive relationship with the OFT Payments Systems Task Force in which we were able to use our unique position to inject detailed cheque and credit knowledge into the process to ensure that the Task Force successfully met its objectives whilst the Company continued to maintain its core objectives.

Since the formation of the Payments Council, the Company has demonstrated its ability to be flexible and has always engaged positively with them as they have worked to deliver their objectives. In 2011 the Payments Council rescinded its decision to close the cheque clearing by 2018. The Company understands the doubts and concerns that were raised by the Treasury Select Committee relating to their decision process and about the governance of payment systems more generally. As a result of the Payments Council's decision to implement their Cheque Replacement Programme in order to close the cheque clearing, the Company initiated a programme of work developing approaches to enable the efficient processing of significantly reducing volumes of cheques whilst continuing to maintain the integrity of the clearing until closure. This programme resulted in a proposal for a Single Utility infrastructure to enable simplified paper processing with much reduced volumes.

We are now actively developing a new clearing system based upon image transfer rather than the movement of paper for the UK and we have been liaising with the Belfast Bankers Clearing Company in Northern Ireland. With an image based approach we will be able to sustain ever reducing volumes of cheques for as long as they may be required. This initiative was commenced with no external influence from regulators or Payments Council and is purely driven by a desire to maintain service to customers using cheques. This proposal has similarities with Check 21 in the US and includes a series of changes directed at capturing and using an image of the cheque at the earliest opportunity. When implemented the industry clearing would be based on image exchange not paper. The use of images could allow a range of competitive image-based customer products to be developed by financial institutions. Key potential benefits include: enabling customers who wish to continue to write paper cheques to do so; providing new services such as enabling customers to pay cheques in remotely (e.g. via mobile phone apps or remote corporate image capture); and allowing an unpaid cheque to be returned to a customer electronically. Cheque imaging also provides the potential to reduce clearing timescales as the need to transport paper around the UK is eliminated.



The simplification of processing by moving to image will increase innovation in the market as well as competition between banks. As mentioned, the work to date has been progressed without direct external pressure, whilst other major innovations within payments schemes (e.g. FPS and account switching) have been the result of regulation or direction from regulators to improve customer offerings. Indeed there is a widely held view that final adoption of such innovation is only possible in today's market if it is mandated in this way.

A move away from the current cheque clearing model to an image model would be a major change including the changes in legislation, which is currently underway, as cheque clearing using images is currently not permissible. In this respect cheques are different from all other payment instruments in that their processing is governed by statute.

The current cheque processing model is a highly efficient process for paper clearing and already utilises image but, as highlighted in the Payments Council's Cheque replacement work, a paper based system is not as efficient as an electronic one. A move to image clearing could potentially release the efficiency benefits and deliver the flexibility of an electronic payments system whilst ensuring those customers who wish or need to can still continue to write cheques. Included within these potential benefits would be the ability enable a wider range of settlement risk reduction measures than is feasible within our current paper based clearing model. It could also enable those customers who receive cheques to use new image technology if they wish when depositing cheques, negating the need to visit a bank branch.

Whilst we continue to develop detailed proposals for a potential image model we will continue to engage further with stakeholders on the impacts it would have on them. From our current market research we know that not all users, for example, may want to see a shorter clearing cycle for cheques, although a reduction to a maximum of two working days is being envisaged. Our Members all have their own internal priorities and will need to evaluate the image model further themselves before a decision can be made.

Governance

There have been a number of regulatory changes since the C&CCC was established, but during all that time the Company has always been able to achieve its agreed objectives whilst working within those regulatory models. We do not envisage that changing, but acknowledge the challenges that we will face. The Company chose to have an independent Chairman in 2006, pre-empting the recent regulatory pressure for other schemes to do likewise. Last year we have introduced independent Directors to our Board. As a Company we are owned by the major UK banks and our Directors are currently nominee Directors from those same shareholding banks. We acknowledge that this structure brings with it a number of conflicts of interest for the Directors who nevertheless strive to ensure that they meet their fiduciary duties to the Company whilst at the same time acknowledging the difficulties that it brings in making decisions on issues, and in particular in agreeing to commence a significant move away from the current clearing model.



The Company would welcome any regulatory environment where our end users, including customers and the wider economy, are able to benefit to the fullest extent from an efficient cheque clearing system. It must be said, however, that the Company would prefer to work within a robust and effective governance structure geared to consider, and have the authority to sanction, for the benefit of customers and the wider industry, proposals which are supported by the highest quality subject matter expertise and as such we welcome the proposals for our direct involvement.

We would wish to ensure that any new governance arrangements support the Company in its efforts to maintain and improve cheque clearing. We believe that implementing a move to image could remove inefficiencies from paper processing, whilst reducing the challenges posed to new Member for entry and by current Members for exiting the paper clearing and ensuring that the payments industry is not restricted by our model (e.g. by issues such as the heavy reliance, under the current process, on sort code lead pairs for sorting cheque paper).

Conclusion

We recognise that the regulatory environment within which the Company works will continue to evolve and our main priority will be, as ever, to continue to maintain the integrity of the clearings. In order to achieve this, the Company will continue to provide a centre of excellence and thought leadership in respect of cheques.

It is essential that the correct regulatory balance is achieved so that any new regulatory structure is simple and effective. The Company will work within whatever structure is selected and will continue to deliver and develop an excellent cheque processing service, for as long as it is required by customers.

We would, of course, be happy to meet with the PSR to discuss this response.

Yours faithfully

Angela Thomas

Managing Director of Cheque & Credit Clearing Company Ltd

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
	Question on proposed regulatory approach	
SP1-Q1	Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.	C&CCC supports the regulatory approach as outlined. We welcome a 'no surprise' culture and will work with the PSR to ensure that our engagement is accurate, meaningful and you are kept well informed of our intentions. We would expect any instances where the PRS sets aside Better Regulation principles or the Regulators' Code to be exceptional and accompanied by a clear justification.
	Questions on industry strategy	
SP2-Q1	Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in Supporting Paper 2: Payments industry strategy and areas for collaboration? If you disagree with our proposed approach, please give your reasons.	Whatever the body it will need to command the confidence of all stakeholders and should be highly inclusive, involving a very broad range of service providers and service users. This could be achieved by Option 1, a reformed Option 2 or Option 3 in consultation with either of these.
SP2-Q2	Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.	<p>C&CCC considers that Option 1 for the design of the Payment Strategy Forum to be the most appropriate approach, but considers that options 2 or 3 could also be made to work.</p> <p>C&CCC believe that the design of the Forum is fundamental to its operation and future success of the payments industry. For the Forum to be effective it is essential that there is an exemplary model of good governance. Whilst all interested parties should be involved, this needs to be balanced against other conflicts of interest and the potential to gain competitive advantage from participation in the Forum.</p> <p>We therefore suggest that there should be a core of representative parties attending the Forum itself, with a number of smaller common interest groups. These common interest groups would be used to manage the areas where there is the potential for competitive advantage. These common interest groups could be chaired by one of the other independent members of the Forum, and could be open to all. It will be critical to ensure that this is then supported by</p>

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
		mechanisms for getting wider input across the end user stakeholder sectors, and not just from the more vocal spokespeople who have the resource to engage. It will also be important to get inputs from other innovative payment systems globally, and not just those from English-speaking jurisdictions. The existence of the Forum should not undermine in any way the governance responsibilities of and stakeholder engagement by individual Operators in determining and executing their strategies, but should support them in driving consumer-focused innovation.
SP2-Q3:	Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?	<p>It is important that Forum should be dynamic, both driving innovation and able to react to changes in the market as they arise. It is important that customer groups and challenger PSPs are central to the Forum, and not an afterthought. We would expect clearly agreed defined targets and timelines for implementation that can be translated into action and reported on against pre agreed measures. It is not clear whether the PSR anticipates that the Forum will itself hold PSPs and Operators to account, or provide the evidence for the PSR to undertake this.</p> <p>It is important that the operation of the Forum should be decided by the Forum itself in its early deliberations. Some sort of international benchmarking would seem necessary to ensure a world class payments system.</p>
SP2-Q4:	Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.	C&CCC considers that the Forum should consider the access to the non-technical aspects of payments system which impact on competition and innovation irrespective of the regulator (PSR, PRA, Bank of England etc). These include access to settlement in central bank money, collateral and loss sharing arrangements which contribute substantially to the ability and willingness of PSPs to access the payment system. The financial crisis of 2008 showed that exposures to counterparties in payment systems may rapidly escalate and we believe that this could result in small banks being unwilling to join payment schemes as direct members due to the difficult-to-quantify settlement and financial risks that such membership incurs.
	Questions on ownership governance and control	
SP3-Q1:	Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you	<p>C&CCC already has in place a number of mechanisms to ensure that the service users' interests are represented at Board level and are considered when making decisions, while benefitting from the expertise of member appointed directors on the Board. These include:</p> <ul style="list-style-type: none"> • Appointment of two independent Board directors who have the ability to block Board decisions on public interest grounds and make themselves available to non-member

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
	disagree with our proposed approach, please give your reasons.	<p>stakeholders to hear their concerns;</p> <ul style="list-style-type: none"> • Annual Cheque User Forum with papers published on website and reviewed by Board. Supported by ad hoc Forums as required. • Annual independent customer research conducted to full professional standards, the results being reviewed by Board • When considering major changes, such as the Future Clearing Model (FCM) we have consulted widely and ensured that decisions are not made before the Board has received and reviewed service user comments. This is particularly true of agency banks where we have fully engaged with them by holding briefing sessions, workshops and one to one meetings when requested. Further, we have advised them that they may address any concerns that they have to C&CCC (and its Independent directors), their sponsor bank or, if they fail to obtain a satisfactory answer, to the regulator direct. We are investigating other ways of strengthening input from non-clearing submitters of cheques in future. <p>The Board will be reviewing how to more fully involve service users of all types in the decision making of the scheme during 2015 within strict confidentiality and competition procedures. We will also engage with the other interbank payment operators to investigate any collaborative approaches to stakeholder engagement to make it easier for a wider range of end users to have input.</p> <p>We intend to introduce some method of benchmarking ourselves against cheque clearing services internationally. It is important that we are able to inform debate more fully on possible incremental improvements needed, but this can only be done from the position of an informed operator. We will be investigating the further evolution of collaborative infrastructure to enable PSPs in the competitive space to offer new benefits and services.</p>
SP3-Q2:	Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?	<p>We agree that it is highly probable that it is more cost effective for the industry as a whole to put in place systems that ensure that the correct decision is taken at Board level with reference to system users rather than put in place correcting action thereafter. C&CCC already have two independent directors to represent the interests of the service users with the aim of delivering a better service for the service users from the start. We have no details regarding the possible additional costs.</p>

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
SP3-Q3:	Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.	<p>We agree with your proposals.</p> <p>As Directors have their fiduciary duties as outlined under the Companies Act 2006 to:</p> <ol style="list-style-type: none"> 1. act within powers 2. promote the success of the company 3. exercise independent judgement 4. exercise reasonable skill and care 5. avoid situational conflicts 6. avoid transactional conflicts; and 7. not accept benefits from third parties. <p>All Member Directors have situational conflicts because they are employed by Company shareholders. However, we agree that further situational conflicts such as the appointment of the same individual as a Director on a system operator and infrastructure provider should be avoided.</p>
SP3-Q4	Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.	<p>C&CCC agree to this proposal. C&CCC will investigate strengthening its rules regarding the handling of conflicts of interest. We will also be reviewing (and benchmarking in other similar industries) how C&CCC can ensure that those nominated to the Board of directors are suitable, sufficiently skilled, and of sufficient seniority to access the decision makers in their nominating Member.</p> <p>C&CCC considers that such a provision could be extended to situations where a director of the Interbank Operator is a director of a company that supplies services associated with the payment system to other participants. As a general rule, we believe that for the avoidance of doubt, clarity and accountability all regulators should exercise their power in an open and transparent manner and therefore all policies such as these should be in the form of a direction from the regulator.</p>
SP3-Q5:	Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?	<p>We believe that there is a benefit in open and transparent management of both the Interbank Operators and the Central Infrastructure Providers. This allows all parties to enter into commercial and competitive contracts without fear or favour. We have no evidence to suggest that such a division would necessarily result in any additional costs for the Interbank Operator, and consider that the more open competition would result in overall reduced costs across the industry.</p>

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
SP3-Q6:	Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.	<p>C&CCC broadly supports this initiative of publishing Board minutes and votes, but believes that some items of Board discussion (such as those regarding security) will need to remain confidential to the company. We will develop clear audit trails for reasons behind any information being kept confidential from the published minutes. There is a concern that publication of votes cast by all Directors may result in some Members withdrawing from appointing a Director, instead opting for observer status at Board meetings and seeking to exert their influence through other non-published channels. Equally, if all Directors were to abstain from voting governance would fail, the Company being unable to make any decisions. We are unsighted on any Member intentions in this respect, but caution against this possible unintended consequence. For the Board to function effectively then Directors must contribute and should not feel unduly constrained by the requirement to publish minutes.</p> <p>C&CCC has held a number of votes at recent Board meetings arising from decisions needed on our Future Clearing Model programme. We believe that the transparency resulting from publishing those votes and the rationale for Directors' decisions may have assisted Directors in managing any potential conflicts of interest, for example if they were put under pressure to vote in accordance with instructions from their employing organisation.</p> <p>We believe that any member or shareholder meetings held for the purpose of providing direction to C&CCC should also be subject to all provisions including the publication of any minutes of meetings in order to avoid decisions relating to C&CCC being taken outside Board meetings.</p>
SP3-Q7:	Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?	We believe that the costs associated with this initiative will be minimal.
SP3-Q8:	Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.	<p>As a general rule, we believe that all regulators should exercise their powers in an open and transparent manner and therefore policies such as Payments Council reserved matters should be subject to a direction from the regulator.</p> <p>C&CCC Board did not grant reserved matters to the Payments Council and therefore is not,</p>

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
		<p>itself, directly affected. However,</p> <p>C&CCC believes that there should be a general direction from the PSR to prohibit Boards of system operators from granting reserve powers or delegating authority to other non-regulated bodies.</p> <p>It is important that Members appoint suitably empowered and senior executives directly to the Boards of the systems operators that are capable of transacting any business necessary without the necessity of reserving or delegating matters to non-regulator bodies such as the Payments Council.</p>
	Questions on direct access to payment systems	
SP4-Q1:	Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.	<p>C&CCC agrees that an Access Rule should be objective, proportionate and non-discriminatory and not prevent, restrict or inhibit access or participation more than is necessary to safeguard against specific risks or to protect the financial and operational stability of the payment system.</p> <p>These Principles (along with other regulatory requirements such as Recognition under the Banking Act 2009, loss sharing arrangements, and the Settlement Finality Directive) are key to providing open access to direct and indirect participants alike. They are seen by many of the smaller potential participants as a levelling of competitive arena by giving them added protection. We therefore believe that for openness reasons payment schemes (unless there is overwhelming evidence to the contrary) should be subject to the same regulators.</p>
SP4-Q2:	Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.	C&CCC agree with the reporting rule and will make its first annual compliance report by 30 th June 2015.
SP4-Q3:	Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.	Not applicable to C&CCC.

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
SP4-Q4:	Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?	C&CCC believes that there could be considerable initial costs associated with implementing the requirements of the access rule in the first year, but that these should reduce significantly in future years. The majority of the access package is part of the Future Clearing Model.
	Questions on indirect access	
SP4-Q5:	Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.	Which members provide access for agency banks and on what basis is a competitive matter. The scheme would welcome any developments that result in more Members offering such a service. We agree that effective competition within this market is a key priority and that more transparency and portability would assist this. The Future Clearing Model is being designed to address this.
SP4-Q6:	Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.	<p>We do not see that the provision of an Information Hub in itself will necessarily deliver your expected outcomes and could, in certain circumstances, actually detract from the delivery. We understand that the PSR's aim in this area is to:</p> <ul style="list-style-type: none"> • encourage greater consistency in the terminology used across the industry, which will facilitate comparison of different access options • reduce the research costs incurred by PSPs when evaluating different access options (by having information in a single location) • provide information to Indirect PSPs on how to most effectively engage with Sponsor Banks regarding the negotiation of Indirect Access. <p>We agree with the objective of making it easier for potential participants of any type to access the information that is necessary for them to make an informed choice. We would welcome the use of common terminology across the industry and consider that this may be delivered by a shared glossary or some other common database. Many of the terms currently used are nuanced by the scheme context in which they are used and are therefore not easily transferable.</p> <p>There is a risk that this this Information Hub will be a tertiary method of accessing the same information after the Sponsor banks and the Scheme. It is therefore essential that any such hub</p>

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
		is kept fully up to date.
P4-Q7:	Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.	C&CCC agrees that a competitive offering to Agency Banks by Sponsor Banks is key to the future of the industry and that a Code of Conduct could aid in building confidence. It will be important to understand the governance for this Code of Conduct. C&CCC would welcome any developments that result in more Members being able to offer such a service.
SP4-Q8:	Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.	<p>C&CCC agrees with the proposals regarding the technical access solution.</p> <p>C&CCC is currently developing a clearing model based upon processing images of cheques rather than the physical paper. A key requirement of the new system will be to make it easier for both direct and indirect participants to connect onto any required central infrastructure. We are also investigating different models of participation in the scheme. From a technical standpoint we are proposing the use of ISO 20022 messaging to aid connectivity and also deliver common back office and fraud detection functionality to all participants on an equal basis, irrespective of participation status. C&CCC is unique amongst the payment schemes in that the base instrument is paper, rather than electronic. Therefore, even when paper is replaced with images, a common Technical Access solution across all payment systems may not accommodate the specific technical requirements necessary to C&CCC. Any new Technical Access solution should be an additional method of access to our Future Clearing Model. We are actively encouraging our existing agency banks to engage in shaping the FCM Programme.</p>
SP4-Q9:	Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?	C&CCC has no information as this will either be held by the sponsoring banks or agency banks.
	Question on interchange fees	
SP5-Q1:	Are there other matters regarding interchange fees that you think we should consider at this	Not applicable to C&CCC.

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
	stage?	
	Questions on holding the industry to account	
SP6-Q1:	Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.	These principles are fully supported by C&CCC
SP6-Q2:	Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.	We agree that the approach should cover all participants (PSPs) of a scheme irrespective of size, ownership, type of entity, how regulated, regulator or regulated etc.
SP6-Q3:	Do you agree with our proposed approach that our PSR Principle on Financial Prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.	<p>We agree that this Principle should apply to operators where they are exempt from CPSS-IOSCO Principle 15. We consider though that fees, due to their size (100% of normal operating costs), for the PSR should be exempt from the general requirement to hold sufficient liquid assets to cover an orderly wind-down. We agree that the requirement should also apply to central infrastructure providers.</p> <p>Whilst a competitive matter between participants and their outsourcers, we suggest that this requirement should also apply to the participants critical outsourcers where their failure would cause market disruption.</p>

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
SP6-Q4:	Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.	C&CCC consider that many of these Principles (Integrity, Skill care & diligence, Management & control, Governance) are adequately covered already. However, Service-users' interests, and Conflicts of interest should also be included in the Principles to ensure that they are also adequately addressed. There needs to be clear differentiation between areas covered by the FCA under their conduct remit and those covered by the PSR under their economic remit.
SP6-Q5:	Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?	We agree with your assumptions that the costs are broadly neutral. Based upon figures currently available, the anticipated charges made by the PSR to C&CCC will be a substantial part of the overall normal running costs of the scheme.
SP6-Q6:	Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.	We agree with your proposed approach to your Objectives Guidance. However, we consider that these objectives need to be considered with equal importance rather than an undue concentration on one over another.
SP6-Q7:	Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.	We have no comments on the Administrative Priority Framework.

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
SP6-Q8:	Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.	<p>In general we agree with the PSRs proposed approach for the Powers and Procedures Guide.</p> <p>Currently member banks are also the owners of C&CCC and participants in the scheme. The requirement to dispose of an interest in a payment system operator could therefore cause difficulties where the ownership of the operator is linked to some form of participation in the payment scheme. This could potentially result in a PSP being forced to divest its interest in the operator resulting in it being unable to provide payment services to service users. To mitigate this risk it would therefore be logical for operators to be owned independently from participants in the payment scheme. If this is the intention of the PSP it is suggested that this should be clearly stated as a policy.</p> <p>Specific areas:</p> <ul style="list-style-type: none"> • Annex 3 paragraph 4.2 – C&CCC believes that 14 days may not be possible to implement, and considers that rather than set a standard time, implementation timescales should be mutually agreed at the time to minimise unintentional consequences of a rushed implementation; • Annex 3 paragraph 5.1 and 5.2 - We would always want to be communicated with before publishing requirements relating to C&CCC; • Annex 3 paragraph 6.2 – C&CCC believes that there should be the same right of appeal to 6.2 in the same way as for 6.1
SP6-Q9:	Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.	We have no comments on the dispute resolution procedures.
SP6-Q10:	Do you agree with our proposed approach for our Super-complaints Guidance? If you disagree with our proposed approach, please give your reasons.	It is difficult to comment before the Treasury have published their list of designated representative bodies. But the process appears to be sound as described.
SP6-Q11:	Do you agree with our proposed approach to	We agree than any penalties should be levied on a principles-based approach.

CHEQUE & CREDIT CLEARING COMPANY

Number	Question	Answer
	setting penalties? If you disagree with our proposed approach, please give your reasons.	
SP6-Q12:	Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?	We do not see that there is any other viable way of setting penalties other than with reference to the revenue. We would suggest that PSR funding charged to C&CCC should be excluded from the calculation of revenue. This is based on the value of C&CCC's contribution to the PSR viz-a-viz the underlying costs of running the scheme, and also recognises that PSR related contributions are not only a 'charge through' item, but also do not contribute the underlying running costs of the scheme. If penalties are ever levied, it should be remembered that C&CCC is a not for profit company. C&CCC would not support the use of transaction values as a metric if such a metric was ever to be considered.
SP6-Q13:	What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?	An upper level of 10% would appear to be in line with other economic regulators.
SP6-Q14:	Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.	We have no comments on the proposed approach with respect to the enforcement and enforceability of penalties.

CLYDESDALE BANK

CLYDESDALE BANK

CLYDESDALE BANK

Consultation Questions

Question in relation to our proposed regulatory approach (see *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

Question	Response
1	Clydesdale supports the broad regulatory approach put forward by the PSR and looks forward to having meaningful engagement with the PSR and industry going forward. Generally, in terms of consultation principles, we would ask the PSR to appreciate the need to ensure proportionality of requests for input and to have a realistic expectation in terms of timing for response and reaction having regard to the other regulatory requirements and BAU activity of those it regulates. It is crucial that the views of all participants in the industry are properly considered if the PSR is to be in a position to take a robust evidence-based approach to investigating and, where appropriate, finding solutions to issues identified.

Questions in relation to our proposed approach to payments industry strategy (see *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

Question	Response
1	<p>Clydesdale is in favour of the launch of a new Payments Strategy Forum.</p> <p>We look forward to playing an active role, helping to put into context the key role that smaller, full-service banks play in UK payments systems. We are also keen to provide insight into the particular challenges that Clydesdale and other smaller banks face in a rapidly changing regulatory environment given the significant impact that ensuring compliance with such requirements has on our</p>

CLYDESDALE BANK

	operational costs.
2	<p>We are generally supportive of the proposed design of the Forum ensuring that the Operators are engaged as well as encouraging appropriate stakeholder engagement, including smaller banks, to assess and develop strategic priorities.</p> <p>In that respect, the PSR should also be mindful of the number of potential stakeholders who will have an interest in the setting of any strategy and to the diversity of their respective interests. Clear terms of reference must be established to ensure that the views and interests of all stakeholders are represented.</p> <p>More broadly as the work of this Forum progresses, we ask the PSR to ensure that the cumulative impact of regulatory, project and operational costs on smaller banks is properly evaluated and the regulatory demands placed upon the industry are proportionate and do not further contribute to an imbalanced playing field. In that respect, we note that smaller market participants such as ourselves often face disproportionately higher costs in adapting to regulatory change.</p> <p>The demands being placed on our business from a regulatory perspective are likely to increase rather than reduce, for example, as we implement the Payment Accounts Directive, the Mortgage Credit Directive, Ring Fenced Bank requirements, Richer Data, PSD2 and the proposed new Regulatory Framework for Individuals.</p>
3	<p>We support the view that the Payments Strategy Forum should be responsible for agreeing the high-level industry strategy and for the industry to develop and coordinate a collaborative operating plan to design and deliver against these objectives. We also agree with the proposal that the PSR or the Payments Strategy Forum establishes a sub-committee or working group structure to address specific strategic objectives reporting ultimately to the Payment Strategy Forum, but provided that the views of all interested stakeholders are considered.</p>
4	<p>We would be happy to consider and present a view on any specific infrastructure proposals at the appropriate time.</p> <p>From a more general perspective, as noted above, the PSR must be mindful of all the current and potential demands on the industry and the ability to deliver multiple major initiatives.</p>

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see *Supporting Paper 3:Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

CLYDESDALE BANK

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

Question	Response
1	Yes, we fully support this general direction that may result in easier access to payment systems, cost efficiencies and a simpler governance model.
2	While we have no specific comments on the broad nature of the costs and benefits outlined, the PSR should be aware that while specific single costs may be relatively small, it is necessary to take into account the cumulative effect of all costs involved (in effective participation in the whole range of payment systems) and that could add up to a substantial sum for a new entrant or challenger bank. Further, the cost of entry to and participation in any particular payment system must be fair and equitable and must not disadvantage any smaller institutions whether they are already a direct member of a payment system or a new entrant.
3	Yes, supportive of proposals
4	Yes, supportive of proposals
5	We have no specific comments on the nature of the costs and benefits outlined.
6	Yes, supportive of proposals
7	We have no specific comments on the nature of the costs and benefits outlined.
8	Yes, supportive of proposals

Questions in relation to our proposed approach to access to payment systems (see *Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle

CLYDESDALE BANK

18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

Question	Response
1	Yes, we agree with this approach.
2	Yes, we agree with this approach.
3	Yes, we agree with this approach.
4	While we are not a Sponsoring Bank, we have no specific comments on the nature of the costs and benefits outlined.
5	While we are not a Sponsoring Bank, we have no specific comments on this proposal.
6	While we are supportive of providing all necessary information to PSPs who require access to payment systems, consideration must be given to the work each of the Operators and Payments Council are undertaking to improve transparency of information regarding access and to avoiding unnecessary cost and duplication of effort.
7	While we are not a Sponsoring Bank, we can see that this may be helpful and at

CLYDESDALE BANK

	the present time would not advocate a more prescriptive approach.
8	We would welcome the opportunity to participate in the PSR's detailed consideration of potential Technical Access solutions and to provide a view to ensure that existing small, challenger banks are not disadvantaged.
9	While we do not disagree, we would like to see more detailed analysis of any costs associated with Indirect Access.

Question in relation to our proposed approach in relation to interchange fees (see *Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

Question	Response
1	There are no other matters that we believe warrant PSR consideration at this point.

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see *Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial Prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority

CLYDESDALE BANK

Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

SP6-Q10: Do you agree with our proposed approach for our Super-complaints Guidance? If you disagree with our proposed approach, please give your reasons.

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

Question	Response
1	Yes, we agree with the three proposed High Level Principles which seem reasonable and appropriate.
2	Yes, Clydesdale Bank seeks to deal with all of its Regulators in an open and cooperative way and we agree with the proposed approach. Mindful of the wide range of activities of many PSPs including ourselves that are of little or no direct relevance to payments services activity, and recognising the other proactive regulatory relationships that we have, we would welcome guidance on the types of issues and information the PSR would expect PSPs to share with it. Additionally, we are conscious that we would not wish to overload the PSR with information that it did not consider directly relevant, particularly if there was an expectation that it would be shared with other regulators in the normal course of business. It would also be helpful if the PSR could provide guidance as to types of information that it would not ordinarily expect PSPs to bring to its attention.
3	Yes, we agree with the proposed approach to the application of the Principle on Financial Prudence.
4	Mindful of the alignment of these other suggested Principles to those of the Financial Conduct Authority (FCA), we would recommend that,

CLYDESDALE BANK

	should any of these additional Principles be adopted, the PSR's regulatory approach to them should be aligned to and coordinated with that of the FCA, with clarification as to the areas of focus of each Regulator. Some form of Memorandum of Understanding as to the coordinated approach to be adopted by the two regulators would be of benefit to PSPs.
5	We have no specific comments on the nature of the costs and benefits outlined.
6	Yes, we agree with the PSR's proposed approach to its Objectives Guidance.
7	Yes, we agree with the PSR's proposed approach to its Administrative Priority Framework.
8	Yes
9	Yes, subject to our comments above, we agree with the PSR's proposed approach to its dispute resolution and application procedures.
10	Yes, we agree with the PSR's proposed approach to its super-complaints guidance.
11	Yes, the approach to the setting of penalties appears reasonable and in particular the concept of proportionality that is key to the methodology proposed.
12	We believe that the PSR is right to consider the wider impact of levying penalties on not-for-profit organisations. We would note that care would need to be taken in basing penalties on the value of funds that were to pass through a system as in some scenarios this could create a penalty that could vastly exceed the revenues that would accrue to a participant. Such an approach could have the effect of risk averse parties choosing to disengage from participation in payment services activity which could ultimately act against the interests of users of those services.
13	An upper limit of 10% of annual income derived from the activity to which the compliance failure relates appears reasonable.
14	We have no specific comments on the PSR's proposed approach in this respect.

CMS PAYMENTS INTELLIGENCE

CMS PAYMENTS INTELLIGENCE

CMS PAYMENTS INTELLIGENCE

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

As we have stated in responses to previous PSR Consultations, we are delighted that the European Commission has proposed regulation of interchange fees across Europe as we have seen first-hand for many years the damaging effect that unduly high fees can have on our merchant clients and their customers.

We agree that the PSR has a very important role to play in implementing this regulation in the UK because, in order to achieve the goals outlined by the Commission, it is essential that the regulation is applied fairly and properly.

To this extent, we are pleased that the PSR has acknowledged the responsibilities that it has in this process. Additional to the remarks made in the Consultation document, we would like to outline the following observations regarding how we feel the PSR should approach interchange regulation:

1. As you will likely be aware, MasterCard issued a proposal for interchange reductions of MasterCard credit cards in the UK in November 2014. The specifics of the proposal were not issued publically but our understanding is that they involve a stepped approach to interchange regulation, with the caps not being reached until nearly 12 months after the IFR comes into force. Therefore, we are concerned that MasterCard's interchange proposals are not compliant with the six month timeframe specified by the Council of the EU in October 2014. We would like the PSR to review this and, if necessary, request an alternative proposal that would be compliant with the regulation.
2. MasterCard have yet to offer a proposal for reduction of MasterCard debit card interchange fees and Visa have yet to offer anything regarding interchange reductions outside of the Visa Cross-Border Domestic Interchange Programme. We encourage the PSR to proactively request proposals from both card schemes because we are concerned that, with the regulation due to be signed off by the European Parliament within the next few months, a schedule needs to be in place for interchange fee reductions or else we are at risk of not meeting the six month deadline.
3. It is within the rights of the PSR to impose interchange caps lower than the European Commission's proposed rates. Given that the UK is by far Europe's largest card market and the rates were calculated by using data from two smaller EU countries, we think that there is a compelling case for the PSR to review the possibility of imposing lower caps.
4. As noted in the Consultation document, it is essential, given the complex nature of weighted average caps, that interchange fees are regularly reviewed and scrutinised to ensure that they continue to be compliant with the regulation. For instance, we are concerned that issuing patterns could lead to an increase in card volumes from higher-interchange card types. Additionally, 3 party card schemes (currently exempt from the IFR) could increase issuance of high interchange card products via card issuing partners i.e. banks.

CMS PAYMENTS INTELLIGENCE

We look forward to continuing to work with the PSR to achieve its aim of creating an interchange framework in the UK that is fair and compliant with EU legislation and we hope that the above points can assist with this.

CONFEDERATION OF BRITISH INDUSTRY

CONFEDERATION OF BRITISH INDUSTRY

12th January 2015

PSR head office
25 The North Colonnade
Canary Wharf
London
E14 5HS

Dear Hannah,

I would like to take this opportunity to respond to the consultation 'A new regulatory framework for payment systems in the UK' and share with you some of the CBI's views on the issues under discussion.

The CBI is supportive of the PSR's vision to promote an open, efficient and secure, world-class UK payments industry in which innovation and competition respond to the payment needs of end-users. We recognise that the PSR has an important role to play in guiding the industry to reach this goal, and welcome the opportunity to put forward our views in response to the PSR's consultation through this letter.

This paper makes the following points:

- The CBI is pleased to see that the PSR will function as an economic regulator and it must ensure it consistently acts within this remit and regulate through a strategic approach
- We are encouraged by the PSR's recognition of the importance of acting collaboratively with other regulators and industry stakeholders and this approach should also be applied by the PSR with international counterparts and stakeholders

The CBI is pleased to see that PSR will act as an economic regulator and it must ensure it consistently acts within this remit and regulate through a strategic approach

The decision affirming that the PSR will act as an economic regulator is the right one and the best fit for the UK payments industry. In our view, an economic regulator should only act in cases where problems associated with competition and market failure arise, in order to avoid overstepping its mandate. The implications of any measures subsequently taken must be thoroughly considered and market intervention should only be made when clear end-user detriment is evident. Solutions should be reached via robust cost-benefit analysis. To act otherwise and step into the conduct space, risks undermining regulatory certainty in the industry which is vital for investment, as well as the fast-paced development of the payments industry.

Payment systems in the UK are highly diverse, constantly evolving and international, with many that operate beyond just the UK. A 'one size fits all' approach is therefore unsuitable. It is also important to consider that the industry is entering a highly innovative period and regulation must not stifle this. The PSR must be nimble in adapting to change and thus consistently regulate strategically to avoid being overly prescriptive on detail.

We are encouraged by the PSR's recognition of the importance of acting collaboratively with other regulators and industry stakeholders and this approach should also be applied by the PSR with international counterparts and stakeholders



CONFEDERATION OF BRITISH INDUSTRY

Regulation of the UK payments industry is a crowded space with UK regulators already involved on issues that affect the industry such as the FCA and CMA. This is exacerbated at international level with EU regulation such as, the Payment Services Directive and the Regulation on Interchange Fees having a significant impact. A joined-up approach to the PSR's regulatory activities is therefore vital for its regulation to be effective and is important for business and all players in the industry. The CBI is pleased that the consultation clearly acknowledges the importance of a collaborative approach and we hope that it will consistently apply this approach.

A joined-up approach also requires taking account of the international implications of UK decisions and working with international counterparts and stakeholders to limit any potential disruptive impact. UK-focused regulatory interventions could create challenges for internationally-capable systems or could slow down innovation delivery if changes are required in the UK alone without reference to the wider international picture.

Moreover, we hope that the PSR's encouraging efforts to engage with industry, consumers and other stakeholders to date will be consistent from the start of its operations in April.

Matthew Fell
Director
CBI

CONSUMER COUNCIL FOR NORTHERN IRELAND

CONSUMER COUNCIL FOR NORTHERN IRELAND

CONSUMER COUNCIL FOR NORTHERN IRELAND



Consultation: A New Regulatory Framework for Payment Systems in the UK- PSR CP14/1

Date: 31st December 2014

Contact: Eimear Duffy

Our (PID) reference number: 2147/PD20010

CONSUMER COUNCIL FOR NORTHERN IRELAND

Introduction

The General Consumer Council for Northern Ireland (the Consumer Council) is an independent consumer organisation, working to bring about change to benefit Northern Ireland (NI) consumers. Our aim is to *'make the consumer voice heard and make it count'*.

We have a statutory remit to promote and safeguard the interests of consumers and have specific functions in relation to energy, water, transport, food and postal services. These include considering consumer complaints and enquiries, carrying out research and educating and informing consumers.

The Consumer Council leads the Financial Capability Partnership NI (the Partnership) which brings together representatives from Government, education, banks, building societies, credit unions and voluntary and community sectors to ensure that we all help and support consumers in NI manage their money and make it work best for them.

A New Regulatory Framework for Payment Systems in the UK

We welcome the opportunity to respond to this consultation.

The Consumer Council's view of any regulatory framework, either existing or new, is that the interests of consumers should be protected and that these should be at the core of any regime. Many proposals set out in this consultation are specific to the payment systems industry and

CONSUMER COUNCIL FOR NORTHERN IRELAND

technical in nature; as such we would not wish to comment on these and feel that payment systems operators and providers would be better placed to comment on these areas.

We are pleased to see that the statutory objectives and the aim of the Payment Systems Regulator (PSR) is to ensure payment systems operate in the best interests of service users, and that competition and innovation will be promoted. While it is important to encourage innovation, we believe that consumers have the right to a choice of payment methods that suit their needs.

The interests of service users

In the interest of providing suitable payment systems to consumers, we believe that they should be based on the following principles:

- Consumers require a choice of payment methods that are straightforward, efficient, cost effective and secure.
- Consumers need easy to understand information about payment methods, the costs, risks and level of security of those options.
- Education on new and existing methods is crucial to ensure that consumers have the confidence to try new methods.

CONSUMER COUNCIL FOR NORTHERN IRELAND

- Greater account should be taken of the needs of those who find it difficult to use payment methods, including people with physical or visual impairment, those on a low income and consumers with low levels of financial capability.

The PSR should operate a robust, flexible system for regulation. This would enable early identification of, and response to, issues within the industry that could cause detriment to consumers. Payment systems themselves also need to be robust and flexible, responding to needs of their service users as well as being reliable and secure. We fully agree with the PSR's vision that payment systems must be responsive, innovative, competitive, efficient and reliable. However, due to the sheer size of the infrastructure it is likely that technical problems will happen occasionally, and necessary and appropriate action should be taken by the PSR to negate detriment to consumers and prevent similar occurrences happening in the future.

To conclude, all consumers must have suitable payment methods to meet their individual needs. They must not be disadvantaged because they are unable to use or afford technology driven by internet or smart phones. The Payments Systems Regulator will have an important role to play in ensuring that new payments technology is accessible to all, easy to use and reliable. We look forward to working together to ensure that the needs of consumers in NI are met.

If you wish to discuss any aspect of this response in more detail please do not hesitate to contact Eimear Duffy on 028 9067 4898 or via email on eimear.duffy@consumercouncil.org.uk.



Making the consumer voice heard and making it count

Elizabeth House
116 Holywood Road
Belfast
BT4 1NY

Telephone: 0800 121 6022
Textphone: 028 9067 2488
Fax: 028 9065 7701
E-mail: info@consumercouncil.org.uk
Website: www.consumercouncil.org.uk

CO-OPERATIVE BANK

CO-OPERATIVE BANK

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

We are in agreement with the proposed regulatory approach as outlined in the consultation paper and in particular the focus on end users and transparency. Also, we support the aim of letting the industry develop and implement solutions to meet the desired outcomes described by the PSR. The expectation of a no surprises culture is reasonable, but it would be beneficial for the PSR to share key criteria to assist participants to understand when engagement is appropriate.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

We agree with the creation of a Payments Strategy Forum given the need to include the views of such wide stakeholder representation.

A key aspect that the Forum should robustly consider is the impact assessment of proposed developments, to ensure that user requirements are balanced against costs and benefits delivered across all participants. On a practical basis, this includes ensuring that "appropriate railtracks" for payments continue to be developed and delivered that offer easy access and allow competitive solutions to be derived by participants.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

From the description of the design of the forum it is not clear how representatives will be selected to join this forum. With a stakeholder group as large and diverse as that for payments and thus required for this Forum, appropriate criteria and governance processes should be developed and shared with the industry. Additionally this should cover how long individual representatives can sit for and whether or not 'elections' are required.

One of the key issues encountered, thus far, with industry user groups in our experience is that attendance wanes if the subject under discussion is not directly of interest to the group represented and a balanced view may not result. Therefore a flexible approach may be required dependent on subject matter.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

The model appears to be a logical approach and is similar to the way that Schemes currently develop proposals and deliver change.

The journey from idea to a workable solution and then to delivery is not straightforward given the systems and complexities across the whole stakeholder group. For example, the enablement of the acceptance of contactless payment cards on London Underground was agreed between all parties in early 2011, but identification of a workable solution took nearly 12 months to achieve due to the complexities of systems. Development and testing of those solutions took a further 2 years to reach implementation, despite clear benefits and a strong desire to implement by all participants. A major aspect slowing this change was a pre-requisite driven by all participants to ensure that end users had a transparent and convenient migration path and that regulatory requirements were met.

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

Consideration should be given to the evolution of payments and the inevitability that some payment methods or channels will become less convenient, efficient and secure for users, may attract fraud and create cost inefficiencies for new and existing participants.

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper* and *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

It is sensible and desirable for Schemes and major Payments Services Providers (PSPs) to seek input from as wide a stakeholder group as possible to try and ensure that all views and opinions are incorporated into decision making, thereby ensuring end user acceptance and desirability of use.

However, issues could manifest here in obtaining representative views which are not too narrow. Whilst it is relatively easy to obtain the views of charities and some retailers for instance, it is much harder to engage right across the spectrum of users to obtain the widest possible input.

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

We agree with the assessment that costs are not likely to be significant in seeking a wider representation of user interests.

Whilst there is a clear benefit in obtaining the direct views of users on the services that they would like and use, it may be difficult to deliver such facilities. A very strong consideration in any proposal is in security and fraud prevention and this naturally places constraints on usability which may be counter intuitive to aims from a user point of view.

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

We are in agreement with this direction.

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

This is a proportionate response and offers Schemes the opportunity to take reasonable steps to address any issues they may find upon completion of their reviews.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

We agree that the costs and benefits identified will be achieved using this approach.

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

We believe that the competitive issues that could arise need further consideration before giving support to this idea.

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

See above

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

It is our understanding that this issue has already been resolved with the Schemes concerned.

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper* and *Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

We agree with this approach.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

We support the introduction of a Reporting Rule.

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

We agree that this is the appropriate way forward.

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

We agree with the assessment of costs and benefits.

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

We believe that it is a reasonable expectation that Sponsor Banks publish this type of information to enable better decision making by Indirect PSPs.

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

We fully support the proposal to let the industry lead work to develop and deliver the information hub.

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

We are supportive of the development and implementation of a Sponsor Bank Code of Conduct.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

We agree and endorse the proposed approach and recognise that both cross industry and individual schemes are working up proposals for further review.

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

We agree that the benefits of improving transparency in the market place will be achieved by this approach.

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

We believe that the subject of interchange has been considered by existing UK and European regulators and the likely consequences have been shared by the industry. However, going forward we believe that there is a role for the PSR to ensure an appropriate interchange structure that works for all stakeholders is maintained as the models develop over time.

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

We agree with the three high level principles.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

It is fair and reasonable for a level playing field approach to be adopted, requiring the same of all participants although we are concerned that some key participants are not currently being designated.

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

We agree that the proposed approach on financial prudence should apply to Operators and Central Infrastructure Providers.

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

As all of the additional proposed Principles are addressed by other proposals contained within the consultation, there seems to be little need to adopt them in the tools to regulate. It is clear that the PSR will seek to take action if any proposals/requirements are not sufficiently met and therefore adoption at this point seems unnecessary.

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

We agree with the costs and benefits outlined.

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach to objective guidance.

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach for the PSR's Administrative Priority Framework.

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach to your powers & procedures.

We note that responding to PSR requests by Operators is 14 days, as resources are constrained as many are not for profit organisations we feel this should be an equivalent timescale as that given to the PSR to respond (see Annex 3 paragraph 4.2).

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach to dispute resolution.

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints Guidance? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach to super complaints guidance.

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach to setting penalties.

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

We agree with the approach of using revenues as the metrics upon which to base penalties.

We do not see a link between the value of funds transferred and the amount of the penalty. The total value of funds transferred can be very high and bear no resemblance to the profitability or funding available to a participant from which to meet a penalty.

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

We believe that the subjects of enforcement and penalties require further consideration. Whilst, say, a 10% upper limit may not have wide ranging consequences to some participants, there could be unintended consequences for "not for profit" organisations and such penalties could only be met by a direct call for funds from their members - penalties could end up being borne by end users.

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

See above.

CREDEC

CREDEC

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes. CreDec welcomes the regulatory approach the PSR has presented.

As CreDec's responses make clear, while we wholly agree with the general principles of the PSR's proposed regulatory framework and its specific initiatives, our comments and guidance may broadly be summarised as the concern that the general Access Rule and provisions for access the PSR proposes [for designated Inter-Bank systems] do not sufficiently prioritise Service Users, as the PSR formally defines them to include end-users.

The PSR's determination to make the interests of Service Users a fundamental objective of its oversight of UK payments is in CreDec's view right, and the PSR's success in supporting this core objective must be central to its direction of UK payments and its regulation of this market. As the PSR has itself observed: "Regardless of the type of access, PSPs should be able to deliver desired and beneficial outcomes to service users and end users".¹

Therefore what CreDec wishes to communicate in this response is a matter of emphasis only. In particular, that while the PSR's general Access proposals recognise the interests of Service Users and provide for them indirectly, through the adoption of an access regime that promotes greater competition among PSPs benefitting from more formalised PSP access arrangements to UK payment networks and Operators, these benefits accrue only *indirectly* to Service Users and end-users. While the arrangements the PSR proposes are appropriate and proportionate for the purpose of a more structured approach for Direct and Indirect PSP access to ensure market participants can secure access to payment systems, they - as a general observation - appear to concentrate overly on "wholesale" access for PSPs over "retail" access mechanisms for end-user Service Users.

To make a comparison with the telecommunications markets, the issue CreDec wishes to draw the PSR's attention to is 'the last mile': the specific issue of how Service Users, especially prospective end-users, themselves

¹ Payment Services Regulator Stakeholder Workshop, 5 June 2014: *Access to UK payment systems: what type of access regime will deliver the best outcomes for customers?* <http://www.fca.org.uk/static/documents/psr-access-plenary.pdf>

access the regulated payment services provided by competing PSPs when access to a PSP's services is dependent on the incumbent provider or Sponsor Bank. This observation is valid even when a prospective Service User/end-user wishes to access a regulated payment service via its own incumbent Direct PSP or Sponsor Bank.

We are mindful of the challenges a consultation of this scale and scope poses to the PSR, requiring the presentation of its proposals on market structures of considerable complexity, across multiple, diverse payment networks. It is readily accepted by CreDec that the PSR may already have recognised the importance of these largely technical access issues in the realisation of its core objectives of championing the interests of Service Users, innovation and competition. Similarly, we acknowledge the primacy the PSR already accords to Service Users is both explicitly acknowledged in its Consultation and implicitly in its Access proposals².

Our intention is only to clarify and emphasise these points to ensure they are brought more fully to the notice of the PSR so that it can deliberate their significance and what place they should occupy in its regulatory oversight.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes. We support the proposed approach (Option1).

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

Type your answer here

Yes. We would advocate the creation of a stakeholder and affiliate group for each designated payment network/Operator, or Network Stakeholder

² **4.191** "We want to ensure that Indirect Access is functioning in a manner that promotes competition, innovation and is in the interests of service-users. For this reason, we want to identify any issues that may be preventing the supply of Indirect Access from functioning effectively."

Group ("NSG"). Some interested stakeholders e.g. PSPs might necessarily be represented on more than one such NSG but we consider this the most efficient arrangement to ensure the critical input and support of the stakeholders most likely to represent Service User interests and deliver the PSR's competition and innovation objectives. Similarly it means the technical and network specific expertise would be concentrated in the relevant "NSG" to ensure efficient collaboration and fast progress in the implementation of the Payment Strategy Forum's stated goals. The PSR, Bank and other key Government stakeholders could be represented by a handful of individuals in more than one "NSG".

Such an approach would fit with the PSR's proposed frequency of the Payments Strategy Forum's meetings, allowing 6-12 weeks for meetings of the multiple "NSG" to take place in between the Payments Strategy Forum's meetings providing for the attendance of a supplier (PSP) stakeholder who is represented in more than one "NSG") at the "NSG" meetings relevant to them.

The "working groups" anticipated by the PSR's indicative model for the Payments Strategy Forum could therefore comprise members of the relevant "NSG" with the relevant expertise and skills wishing to be represented in a project working group.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

Type your answer here

No. See our answer to SP2-Q2 (above).

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

Type your answer here

No

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper* and *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Type your answer here

Yes

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes, provided that the PSR is prepared, as required, to issue clear and prompt directions where appropriate to manage other conflicts of interest, in particular concerning Service User (and end-user) access to payment systems. CreDec sees the potential for current market structures and mechanisms to magnify conflicts of interest as a direct result of rapid changes to UK payment behaviour arising from Government's reforms to public policy.

Public policy reforms for tax, welfare and pensions all rely on low cost access to UK payment systems, currently BACS Direct Credit only, to evidence employer compliance with their obligations to report PAYE, (thereby facilitating the correct operation of employee claims for) Universal Credit and contribution payments into Auto Enrolment workplace pensions. In due course it is anticipated other payment channels in addition to BACS will similarly support richer data solutions, but the short term window for richer payment reference data offered only by BACS represents a significant industry challenge.

These public policy reforms connected to the operation of BACS Direct Credit have the capacity to trigger rapid changes in user payment behaviour in the employer and business Service User (end-user) arena because the regulatory reporting changes they lay on employers are subject to the sanction of financial penalties. Increased demand for BACS

Direct Credit payment services from Service Users has the potential to test existing Sponsor Bank mechanisms for Direct Credit Service User provisioning (thereby facilitating Direct BACS access), and put them under stress. In particular the current support arrangements for provisioning access to Direct BACS services are not obviously aligned to a service level that provides the transparency and response times necessary to allow end-users to migrate efficiently from one payment channel to another, for example from FPS to Direct BACS. Accordingly, there is a high probability the increased demand for BACS Direct Credit payment services will result in a conflict of interest between potential Service Users (end-users) and their Sponsor Bank when transferring existing routine payments to this alternative payment channel. This potential difficulty may arise simply because the end-users' exposure to statutory penalties arises faster than Sponsor Banks current support infrastructure can facilitate the transfer from one payment channel to BACS.

In the event the need for additional PSR direction arises to ensure effective access for Service Users (end-users) to BACS payment services so as to safeguard end-user compliance with their statutory reporting obligations, and additionally to protect them from statutory reporting penalties, CreDec would support the PSR's proposed approach to reserve the right to issue additional direction to market participants, as necessary.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Type your answer here

Yes. (CreDec has no specific relevant data to inform the PSR's analysis of likely costs.)

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Type your answer here

Yes

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper* and *Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

Type your answer here

As a generic proposal, yes we agree with the approach that the PSR develop an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles.

However, we would caution that these access principles are highly generic and define access requirements only for Direct and Indirect participants of Payment Service Providers. They do not provide for access to Service Users in their designation as end-users. The proposed access principles make no wider reference to the PSR's definition of 'Service Users' which the PSR defines as both the participants of the UK's payment systems and their end-users, or prospective end users³:

Service-users are those who use, or are likely to use, services provided by payment systems. This is a wide definition, which includes, but is not limited to:

- *Payment service providers (PSPs) including direct and indirect participants in payment systems such as banks, building societies, credit unions, ATM operators, authorised and small e-money institutions, and authorised and small payment institutions.*
- *Customers of direct and indirect participants of payment systems, including government departments, large corporations, SMEs, retailers, utilities, charities and individual consumers.*

³ PSR CP14/1.6 [Consultation/Supporting Paper 6]:Annex 1: Draft Objectives Guidance, Section 3 'How we define service-users'

Supporting Paper 4 references access arrangements and a proposed Access Rule applicable to Operators of (non-PSRs 2009 pan-GB Operators i.e. Bacs, C&CC, CHAPS and FPS) and [their] compliance with reporting obligations (the Reporting Rule). In the BACS payment network, the Operator is BACS Payment Services Limited, BPSL.

The proposed Access Rule for BACS and its related Access Package therefore as set out in SP4 appears only to refer to direct or indirect PSP arrangements for access to BPSL as the Operator of the BACS payment network and does not appear to recognise that access to BACS payment services for Service Users/end-users as PSR defines them is not controlled by the Operator, BPSL, but by BACS's Sponsor Banks, Direct PSP members of the BACS network.

The interests of Service Users/end-users of BACS payment services cannot become visible to the PSR or be monitored without their explicit inclusion in the access arrangements and Access Package for BACS. This is a point of especial importance.

In the BACS payment network a Service User/end-user cannot access payment services for credit payments unless they are first accredited by a Sponsor Bank/Direct PSP, regardless of whether or not the Service User wishes to make BACS credit payments indirectly, for example via an Indirect PSP. The Operator of BACS, BPSL, has no involvement in regulating Service User access to BACS. Both Direct and Indirect access to BACS for Service Users depends solely on the prior and continuous sponsorship of a Sponsor Bank/Direct PSP. For BACS Direct Credit payment services this is an absolute rule to which there are no exceptions: a prospective Service User/end-user of BACS Direct Credit payment services cannot instruct payments, Directly or Indirectly, on BACS without its Sponsor Bank/Direct PSP providing access to BACS. The same applies to BACS Direct Debit payment services although Indirect PSPs can (acting as the Service User) provide Direct Debit services, as an agent, for their end-user customer. (In this instance, the end-user is not a participant in the payment service or network: it is only indirectly involved as the customer of an Indirect PSP, which resells payment services. Such arrangements arise and predominate as a result of the non-transparent access arrangements Sponsor Banks/ Direct PSPs and the challenges prospective Service User/end-users encounter when seeking sponsorship.)

The PSR's statement at [4.273] "We are also concerned that the uncertainty that some PSPs experience in the supply of [Service User] Indirect Access arrangements may similarly constrain their confidence to develop and invest in new and innovative service offerings, limiting their ability to compete in the provision of payment services to end-users" relates explicitly to the dependency that Indirect PSPs have on Sponsor Banks to provision Service Users/end-user access.

It is worth noting that in BACS the end-user is defined by BPSL as a Service User and the mechanism by which their access to BACS is effected is a BACS payment network ID which references the end-user Service User, formally designated by BACS as a 'Service User Number'. As previously noted, the sponsorship and therefore allocation of this Service User ID is not within the control of BPSL but the Sponsor Bank. In BACS, without exception credit risk attaches to attaches to Service Users i.e. end-users using a BACS Service User Number (and indirectly therefore their Sponsor Banks/Direct PSPs. No Service User credit risk attaches to BACS Indirect PSPs (except where the Indirect PSP acts as a principal to its customer and uses its own BACS Service User Number to resell debit only payment services to its end-user customer).

Therefore the development by the PSR of an Access Rule that is focused exclusively on the principles governing access to payment systems for Direct and Indirect PSP participants only appears to be at risk of not addressing access arrangements for (prospective) end-users and service users, a core PSR objective.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes. CreDec considers the introduction of a Reporting Rule to assess compliance with the access obligations of pan-GB Operators a welcome and important development: but with reference to the answer at SP4-Q1 (above), it must reference an Access Package that fully takes account of how access is actually controlled by Operators **and** Direct PSPs/Sponsor Banks for a Reporting Rule to be effective.

On the basis that the PSR's Access Package for pan-GB Operators i.e. BACS will include access arrangements that include and safeguard the interests of Service Users/end-users, and these would be included in the reporting regime proposed, CreDec would comment as follows.

First, such a Reporting Rule would (in reference to BACS in particular and other pan-GB networks in general) serve to provide a simple mechanism to monitor the operation of the access mechanism for the BACS network, specifically the provisioning of access rights/service capabilities to end-users, and any conflict of interest between Sponsor Banks/Direct PSP and Service Users (end-users), to alert the PSR to the potential requirement for subsequent Directions as to provisions for access.

The frequency of reporting under the proposed Reporting Rule is

important. For the reasons set out elsewhere in this submission, significant changes in payment behaviour are likely as a direct result of regulatory changes arising from public policy reforms affecting all UK employers, business Service Users/end-users. The peculiar circumstances now pertaining to BACS mean that an annual reporting rule is almost certainly inadequate to signal end-user demand for this payment network. The frequency of the Reporting Rule should either be set at a more frequent interval or include an obligation on PSPs so as to notify PSR of exceptional changes outside of historic trends, as they arise in near real time as the PSR anticipates “as soon as is reasonably practicable”⁴. In this way reporting obligations can be relied on to signal clearly changes in Service User (end-user) payment channel behaviour and allow PSR to monitor the efficiency of current Sponsor Bank, Direct PSP access systems for provisioning new Service Users (end-users).

In general therefore Reporting Rule(s) for monitoring compliance with network access obligations for Operators and Sponsor Banks/Direct PSPs should take account of:

- Reporting frequency that additionally allows for exception reporting on requests for access (from prospective Service-Users/end-users) that exceed pre-defined parameters that reference historic access and usage of each designated payment system.
- The overall volume of Service-User (end-user) applications from prospective Service Users and the segmentation of these prospective Service Users by appropriate metrics applying to a designated payment system(s) in the reporting period(s) set by PSR.
- A designated application date clearly defined by the PSR from which Sponsor Banks/Direct PSPs are required to measure the applicant Service User’s (end-user) application, or alternatively the date a prospective applicant clearly indicates their demand for a designated payment service and/or access to a designated payment system, whether or not this is expressed by reference to a formal Sponsor Bank application for the same or by reference to another PSP data channel provided the request for access to the designated payment system and or services is recorded by the applicant Service User, prospective end-user itself/themselves only.

CreDec notes however with reference to [SP4-Q3] Question 3 below that there is no proposal to *create an obligation to require public disclosure of Access Requirements for Operators of Payment Systems **not** subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)*. CreDec wishes to bring the PSR’s attention to the fact that the way in which de facto access to BACS payment services is controlled at a Service User/end-

⁴ **4.153** We also require all Operators to inform us, as soon as is reasonably practicable, of any material updates and changes which are made to their Access Requirements. These requirements would apply to all Operators required to comply with a regulatory access obligation (either our proposed Access Rule or Regulation 97 of the PSRs 2009).

user level by Sponsor Banks/Direct PSPS, not at a network level by the Operator BPSL, means a Reporting Rule obligation concerning compliance with access obligations that focus exclusively on the Access Requirements of PSPS, Direct or Indirect, to the BACS network cannot reveal the true level of end-user demand for BACS payment services.

BACS PSR Reporting Rules for Access Requirements must take account not only of demands for PSP Direct / Indirect access but also Service Users: The failure or omission to do so would leave the true level of demand for access to BACS by Service Users unmeasured and invisible to the PSR.

Therefore, without a clear and explicit obligation on Sponsor Banks/Direct PSPS requiring them to disclose BACS Access Requirements to prospective Service Users/end-users (being these banks' own customers) which sets out the process by which prospective users can access Direct BACS payment services as a Service User (in effect how the end-user can access its bank's sponsorship for BACS to allow it to use BACS payment services), any Reporting Rule for BACS Access Rules will have little effect and be of negligible value.

Please note that the Sponsor Bank's promotion of its own "BACS" products as a BACS access solution, where the bank is effectively selling its own branded [software application] access solution which replicate the services of BACS without sponsoring its customer as a BACS Service User, which alone allows full and proper access to Direct Credit/Direct Debit services, cannot be deemed a disclosure of the Sponsor Bank's Access Requirements. In such circumstances the bank is promoting its own limited version only of BACS payment services, where it acts as principal not as agent. It controls access to BACS and does not confer on the customer the full protections and benefits of BACS services and Service User sponsorship.

Where the use of a designated payment network facilitates a potential Service User/end-user's compliance with their statutory reporting obligations to Government then it should be incumbent on the Sponsor Banks/Direct PSPs controlling access to such a payment network to publish clear and explicit Access Requirements to prospective end-users. The failure to do so unfairly prejudices the interests of prospective Service Users and the efficient implementation and operation of public policy linked to designated payment networks.

It is reasonable that these Service User/end-user BACS access arrangements be provided by Sponsor Banks in a way that best meets prospective end-user demand for the designated services. To this extent it would be appropriate and proportionate for Sponsor Banks to be allowed reasonable discretion as to how they support such prospective end-user demand, provided that demand for access information and how to secure access is met, however it arises, and this can be objectively demonstrated

by Sponsor Banks.

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

Type your answer here

Yes. (CreDec has no specific relevant data to inform the PSR's analysis of likely costs.)

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes. Please refer to our answers at SP4-Q1 & Q2.

4.287 "By increasing the availability of information we expect our proposal to advance the interests of those who use, or are likely to use, the services provided by payment systems because they will be in a better position to understand, assess and choose the best route for them to access payment systems."

As previously noted, the direction requiring Sponsor Banks to publish information for PSPs requires some contingent response from Sponsor Banks to facilitate their customer access to the payment services of designated payment systems.

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this

time? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes.

We do not consider a more prescriptive approach to be appropriate. However, we would suggest that the PSR might consider consulting with Indirect PSPs, albeit briefly, on the draft Code of Conduct following its development by Sponsor Banks thereby ensuring it is independently validated by the stakeholders it is intended to protect. For example, we suggest publication of the proposed Code of Conduct to Indirect PSPs in advance of its approval by 30 June 2015, for the purposes of inviting Indirect PSP comment on the draft Code of Conduct. We note PSR's expectation that Sponsor Banks should lead the Code of Conduct initiative "and in doing so will engage with Indirect PSPs to gather their views on the Code of Conduct's potential content". [4.304] Given the short timescale available to Sponsoring Banks the opportunity for them to consult and canvas the views or gather the detailed requirements of their Indirect PSPs may be limited. There may also be some reticence on the part of Indirect PSPs to speak frankly to their sponsors directly. Such a request for Indirect PSP comment on the proposed draft Code of Conduct would ensure the appropriate level of consultation and input from the relevant stakeholders had been obtained and a suitable opportunity to identify specific matters important to ensure the continuity of payment services for Service Users made use of.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

Type your answer here

Yes. (CreDec has no specific relevant data to inform the PSR's analysis of likely costs.)

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should

consider at this stage?

Type your answer here

No

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

Type your answer here

Yes

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

Type your answer here

Yes

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

Type your answer here

Yes. We consider all the additional proposed Principles (Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest) should be adopted for the participants to which the PSR proposes each additional Principle should apply.

We consider all the additional proposed Principles are in effect a more systematic application of the 'fit and proper person' rule, which applies to regulated Payment Institutions under the Payment Services Regulations, under which Indirect PSPs are required operate: it is proportionate and appropriate that such additional Principles should apply (as indicated) to Direct PSPs, Operators and Central Infrastructure Providers.

Our reasons are simply that payment networks play a crucial role in the economy and the provision of banking services so it is essential that the core payment infrastructure of these networks work efficiently and are subject to suitable governance arrangements – that are proportionately no less onerous than those which Indirect PSPs operate under. We consider the adoption of these additional Proposed Principles to be essential to ensuring the market's delivery of the PSR's competition and innovation objectives, and the best way to ensure the interests of Service Users and end-users are advanced and safeguarded.

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

Type your answer here

Yes. (CreDec has no specific relevant data to inform the PSR's analysis of likely costs.)

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please

give your reasons.

Type your answer here

Yes

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints Guidance? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes. Save that we think the approach proposed should only apply to minor regulatory breaches and general failures of compliance (such as technical and operational failures) that do not touch on competition matters.

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

Type your answer here

Yes. (See our answer to **SP6-Q13**, below.)

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

Type your answer here

As the PSR itself notes, [6.92] "Owing to the range of participants in payment systems – whose corporate and governance structures can be very different from each other – the revenues derived from or funds transferred within systems to which the compliance failure relates may not always be an accurate measure of the economic significance of the entity that is subject to the relevant obligation, or the impact of the relevant compliance failure".

The true economic value of payment services to individual market participants will vary according to their business model and market proposition and may bear little relation to the actual costs of delivering the services. Payment services are a low value high volume business for all market participants, including Direct PSPs, and have always to be assessed in the entirety of their proposition to the marketplace, customers and end-

users. For example, the banks' "free banking" consumer model recognises payment services as a cost centre albeit one which facilitates higher value services and relationships⁵. Consequently, in most payment providers there is a high degree of cross-subsidy across their service proposition, and therefore the determination of the actual revenue derived from a specific payment service activity is complex.

Therefore in principle we would comment that a single PSR defined penalty limit is almost certainly inappropriate and the PSR should allow itself the discretion to set what it judges to be the appropriate level of penalty for each category of market participant.

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

Type your answer here

Yes

End of Response

⁵ **2.59** "the[re is a] perception amongst industry participants that payments are a 'cost-centre' (due to the free-if-in-credit model for personal customer banking), which reduces participants' willingness to pay for innovation" (Cited by Payments Council: response to Payment Systems Regulator: Call for Inputs (15 April 2014) – p16.)

CREDIT UNION CONSULTANCY

CREDIT UNION CONSULTANCY

CREDIT UNION CONSULTANCY

The Credit Union Consultancy is believed to be the only independent one in the UK. The definition “independent” means that it doesn’t bid for nor accept any form of funding from the State or clearing banks (with a retail branch network – natural competitors of credit unions) and works only for its credit union customers. Also it is not part of any credit union special interest group.

This is set out for you as the texts distributed show the total objectivity and focussed nature of your enquiries that require little narrative response.

SP1	Q1	Agree
SP2	Q1	Agree
SP2	Q2	Agree but with representation by a person without the baggage of a vested interest group. The Regulatory Directorate for Credit Unions in the USA has three Directors, Federal appointments – one has to be a credit union professional.
SP2	Q3	Face to face on a needs must basis, email, conference call, Skype.
SP2	Q4	Credit Union practitioner (not trade bodies) representation at the top table
SP3	Q1	Strongly agree
SP3	Q2	End users must buy into the process.
SP3	Q3	Strongly agree, breaking up of maybe actual or perceived sinister nepotism.
SP3	Q4	In accordance with the open and honest principle, all actual or perceived conflicts of interest should be discussed.
SP3	Q5	As above
SP3	Q6	How would any redaction of commercially confidential material be addressed?
SP3	Q7	As above
SP3	Q8	Appears to contradict the above
SP4	Q1	Agree
SP4	Q2	Agree
SP4	Q3	Agree
SP4	Q4	Agree
SP4	Q5	Strongly agree, principle of corporate governance is the separation of powers.
SP4	Q6	Strongly agree but see response to SP3 Q6.
SP4	Q7	Strongly agree but Regulators must regulate not obfuscate. Regulations can always be changed in the light of experience.
SP4	Q8	Agree but speedy prior approval from the Regulators as a precursor to introduction
SP4	Q9	Agree but beware of restrictive practices and emergence of “most favoured partners”
SP5	Q1	This is a major contentious matter in the USA – who pays? how much? This needs deep consideration.
SP6	Q1	Strongly agree
SP6	Q2	Strongly agree
SP6	Q3	Strongly agree
SP6	Q4	Strongly agree oxymoron question as a key principle is “to be open and honest with the Regulator”.
SP6	Q5	Agree, but with a “sensible” tariff for the non external profit sector – specifically credit unions
SP6	Q6	Agree
SP6	Q7	Agree
SP6	Q8	Strongly agree, but the Regulator must publish a “Guide Book”
SP6	Q9	Agree
SP6	Q10	Agree
SP6	Q11	Agree, but it needs to be set at a level for credit unions that does not penalise shareholders.

CREDIT UNION CONSULTANCY

SP6	Q12	Agree as above
SP6	Q13	Agree as above
SP6	Q14	Agree as above

DEPARTMENT FOR WORK AND PENSIONS

DEPARTMENT FOR WORK AND PENSIONS

DWP Response to the Payment System Regulator Consultation Document “A new regulatory framework for payment systems in the UK”.**About DWP**

The Department for Work and Pensions makes around 700m electronic payments each year distributing some £130 bn of public money to benefit claimants and pensioners. Not only does that distribution provide essential financial support to the recipients, who include some of the UK’s most vulnerable and needy households, it also provides a daily kick start to the UK’s local and retail economy which helps the UK’s business sector to function and in turn to generate the VAT and other tax receipts that fund government in general and welfare support in particular.

As the largest single non-bank user of the UK’s payments systems – especially the Bacs Direct Credit system - the Department has a strong interest in the continuing operational effectiveness of the UK’s payments systems and in developments in their capability to the benefit of our administration and, more importantly, to that of our 20m or so current and future payees. As part of this we also have a keen interest in the Government’s objective of broadening access to electronic payment functionality to all, thus providing greater financial inclusion. The added impetus of the support of a body such as the PSR would significantly increase our progress towards this particular objective.

Looking more broadly at the government- or more correctly Crown – picture of payment system usage, practically every person- corporate and adult individual – in the UK will at some stage be a payer to or payee of the government. They will also be constantly initiating or receiving payments the details of which will be of interest to government – because the receipt, for example, is taxable in the hands of the recipient or because the expense is one that we DWP will subsidise where the payer meets entitlement criteria.

There is thus near equivalence between the nature and extent of the government’s interest in the data initiated for, processed by and output from the UK’s payment systems, and that of the payer, payee and system operators/owners. Customers of banks are used to payments and their consequences being reflected back to them in real time in formats and through channels of their choice. There is no reason in principle why those customers’ financial relationship with government should not also be run in real time and as an automated adjunct to the payment process itself.

Departments across government will have experience of dealing with and targets for improving the financial experience of the individuals and corporations they deal with as taxpayers, as welfare claimants, as motorists, as parents, as bond holders etc. In considering therefore the way in which Payments Systems can work to the advantage of those stakeholder end-user groups it will be vital for PSR to be aware of the government aspects of those requirements. Relevant departments will also be a useful source of information about those end-user groups.

Government- wide strategy

Recent guidance from the Government Digital Service to Chief Technology Officers across Whitehall includes the following advice in the context of increasing the digital capacity of government and

enhancing the experience of citizens in dealing with it ” *Wherever appropriate, the government should use existing external platforms, such as, for example, payments services (ranging from third party merchant acquirer services to the UK’s national payments infrastructure).*

In the PSR-commissioned report by Accenture on “Key lessons from worldwide innovations” in payment systems a significant conclusion is that the involvement of government – as facilitator and initiator, not as regulator or policy maker- can be a significant catalyst in the achievement and targeting of innovation.

It is common knowledge that government faces many challenges on improving the efficiency of its services and making more of its and others’ existing capabilities. It still however has some capacity to pay- particularly on a by results or on a risk/reward sharing basis – for enhanced payments system based services based on its major usage of them.

There is thus a healthy confluence of the interests of end-user stakeholders, government and revenue earning for potential suppliers. This, if captured properly in PSR processes will be a strong force for good in the priority setting and implementation phases of the on-going work in this area.

DWP and the payments system

The advent of Universal Credit and the support it receives from HMRC’s Real Time PAYE reporting system is the first step towards “real time administration” based on re-use of payments system infrastructure.

The largest, Bacs system using, employers are required to provide sufficient additional reference data with payments to enable the matching of their PAYE data submissions with the making of a real and payment system attested payment.

That system is limited in scope (applying only to some Bacs direct submitters) and in informative capacity (it’s broadly a binary yes/no matching), but it has established the principle of the usefulness and benefit to all parties of enabling the payment instruction to do more than just transfer value from one account to another. That principle can and should be extended to all possible use cases.

Over the past two years DWP has been working with the payments industry through the Payments Council and their joint Government Co-ordination Committee (GCC) to bring together the public and industry sectors to work towards a more strategic data submission capability in the payments system. This is known as “richer data” and is referenced in Supporting Document 2 (at para 2.113). Ultimately this has potential benefits not just for employers but for corporates more generally and not just for employed Universal Credit claimants, but for all makers or recipients of payments that carry a government reporting obligation with them.

While the speed of progress of the work of GCC has been reflective of some of the barriers to collective action set out in the consultation document, DWP consider it to be vital that the mechanism for coordination and the agenda items under consideration by GCC do not get lost in the re-structuring of payment system governance in the medium term.

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

We agree the regulatory approach acknowledging your desire to balance prescription and market-led solutions. We would just observe that the difficulty in answering the question of what is “utility” or central provision and what can and should be competitive has been and might potentially be in the future a factor that may slow down the implementation of whatever end-user improvement PSR would seek to achieve. There may thus need to be, in the initial stages at least, a slight but deliberate emphasis on prescription to overcome the “inherited” barriers to progress that have given rise to the PSR’s creation.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council’s or a successor body’s role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

We agree with the selection of Option 1 although we have some concerns about the basis upon which you consider strategic priorities will emerge and get seen through to implementation. Your intention is to “lead on the strategy setting process” to “take control” of the “...strategy... process” and provide the secretariat for the Forum to “agree priorities”. In our view it is not process we are short of under current arrangements but mechanisms for sensible consensus to emerge from them and for proposals to be taken to implementation stage in reasonable timescales. We believe that PSR may want to consider taking a more active role – certainly initially- in actually prescribing the areas in which you most want consensus to emerge. We suggest there are plenty of sources for such priorities for example in existing PCL strategies and GCC.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for

broad stakeholder representation while still being effective.

Experience from attempts at stakeholder involvement in existing governance is that it is easy to set up bodies to include broader views, but less easy to give meaningful weight to those and to expect consensus to emerge.

You refer to the dichotomous interests that can exist in the stakeholder groups – between payer and payee, between incumbent and challenger, between the corporation and the individual. If your design is to work it will be important that we can articulate clearly what it is about them that will enable the reconciliation of those variant interests and their translation into implementable solutions.

Incumbents are sitting on an asset of great potential value to the UK but, as you say treat it as a “cost centre”, regarding it as the “plumbing” which senior decision makers and budget holders in the industry are happy not to hear about. At the same time challengers may be reluctant to become more involved because of the additional regulatory cost involved. A mechanism for breaking out of that polarisation needs to be built into the Forum’s design.

Again applying the empirical evidence of the Accenture report and the logic set out in our introductory comments a way to ensure that may well be for stakeholders’ interests and requirements to be aligned with those (direct or indirect) of government and leavened by relevant departments’ pre-existing understanding of their citizen and corporate populations.

DWP would therefore be very keen to be represented on the Payment Strategy Forum and would be more than willing to contribute to its strategy setting work our broad experience of the payment-based requirements and behaviours of the stakeholder groups with which we deal. Similar input from other government departments as and when relevant would be a further enhancement.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

It is not immediately clear to us how and by whom change proposals, once agreed by the Forum, would be procured and seen through to delivery and where central project management etc resource would come from and how collective funding would be managed. While some of such proposals may safely be left to the market to deliver (with an assumed increase in competition) there will often (if not always) be some sort of central, utility and collaborative need. Would that aspect continue to be owned by the Forum or would there be some sort of implementation oversight by the PSR more generally or would the working groups see through particular proposals reporting in to the Forum to ensure strategic consistency?

While broader and more representative membership will provide greater end-user input and PSR presence will provide more delivery focus, there is still a

large risk that the actual nature and pace of change will still be dictated almost entirely by the investment inclinations and priorities of the main incumbent system owners. With the extrinsic pressures on them for competing capital allocation - some of which may be FCA priorities (divestment, ring fencing, resolution, AML) – it will be important that the structure of the Forum does not leave an effective collective veto in the hands of incumbents or provide scope for change to be delayed or “talked out”. Adding into the mix not just the regulatory power of PSR but the commercial pressure that can be put on incumbents by stimulating in stakeholder end-user groups, demand for enhanced payments based services will be important. Government can be a useful catalyst for doing this.

We would be more than happy to discuss this in more detail with you and to see how DWP can use its weight and position positively

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

That there is a list of pre-identified “themes” that will feed into the early thinking of the Forum is welcome. There are some others that we would suggest be include and those are listed below. On the existing list we would welcome the chance to discuss with PSR and industry how the items on that list align and how the objectives behind each may in fact be delivered by one (or certainly fewer) overarching projects.

ANP for example has some overlaps with CASS (existing and enhanced) on which FCA will be opining shortly based on their assessment of the increase in and benefit to end users of (non TSB-demerger) actual switches. You will be aware of the Australian Treasury’s conclusions on its benefits in their comparable system <http://banking.treasury.gov.au/content/reports/switching/03chapter2.asp>. If the central costs of this are likely to be as high as is indicated the pursuit of ANP as an end in itself may well tie up the capital and resource available for investment in payment systems for a number of years. It is possible that the objectives of ANP could be met by a combination of developments elsewhere (for example in the government’s IDA Programme) and the work on richer data. Cheque imaging too can be characterised – at least in principle as a form of richer data which if delivered through a sensible messaging standardisation offers benefits to all users of the payments systems.

We would also welcome the addition of a theme on scheme alignment – many end-user issues are traceable back to the differing rules, costs and access arrangements for the different schemes. Incumbent interests operate to maintain complexity and variation for which – more or less justifiable- premiums can be charged. The end user need not and indeed should not care about the mechanism by which a payment is made- just that it is effected in the terms promised. DWP in particular has an interest in being able to guarantee payment to our payees on a definite date with sufficient flexibility for us to take into account changes to amounts due right up to the last minute (as part of the “real time administration” objective mentioned above). We would want to see a

move to a 24/7, real time batch payment capability as standard.

DWP would also like to see a theme on a utility, payment system based fraud risk assessment capability. DWP alone loses over £1bn of taxpayers' money each year in fraudulent claims all of which will be paid electronically by means of data processed through the payments system. Sensible and proportionate mechanisms for flagging risk at or before the point of irrevocable paying away would not only save taxpayers' money but would also prevent some of the UK's most vulnerable people getting into debt to the entity on which they rely for their financial support.

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper* and *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

We would be interested to understand whether your conclusion in 3.22 is that the current ownership of interbank payment systems by large PSPs through not-for-profit Operators actually means an overall lower cost *to the end user*. While the cost may not be reflected in direct charges at scheme level, because those PSPs effectively control the nature of access to the systems by end users it is perfectly possible for them to charge for payments services elsewhere and in different guises. We would be happy to work with PSR in looking at the "hidden" costs associated with end user payments, particularly for those of our payees who are unable to take advantage of free-when-in- credit banking.

While we agree that disturbing the ownership and governance arrangements as an end in themselves would not be productive, we have heard existing owners say that if their ownership were to come to an end it would not materially affect them and conversely we have heard challenger saying that they would not want to become owners because of the regulatory and administrative overhead. If those views are anything like common then it may be that a more proactive approach to changing ownership arrangements may be required. These could, though sensibly be prepared on a contingency basis in line with para 3.24.

We would welcome a clear statement from PSR as to how you would measure the effectiveness of the proposed representation and the mechanisms you would anticipate putting in place to ensure those interests continue to be taken into account in the post-decision implementation stage.

If, in the meantime, ownership is to remain broadly as it is we would support

the idea that participation by incumbents should be a more senior P&L owning level from PSPs.

We agree with your proposal to ensure there is appropriate representation on scheme boards and we stand ready to assist PSR in putting in place mechanisms for corralling the interests of send-user groups for which DWP has policy and statutory responsibility.

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

The potential costs here could be reduced by the re-use and leverage of existing government-side consultation and representation mechanisms.

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

DWP agrees this approach.

We would also add that the issue is not just about individuals from particular organisations playing multiple roles but also the seniority of those individuals and the authority with which they would speak when taking payments issues back to their organisations' decision makers.

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

We agree the approach but we would counsel the need for vigilance by PSR that in the absence of direction the practicalities of this approach are not paid lip service to and the bare minimum levels of separation put in place.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform

our analysis of the likely impact of our proposed direction?

DWP is content with this approach but has no useful data on which to elaborate..

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

DWP agree this approach which will need to be robustly policed.

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

DWP agree this approach, though again we have no data to contribute.

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

DWP is content with this approach but has usefully engaged with PCL in the past in the common situation where our interests and those of our payees have required a supra-scheme approach. Consistent with our advocacy of scheme alignment we would also want there to (continue to) be a robust process for us to take our and our payees' requirements to the payments industry on a scheme agnostic basis.

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper* and *Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

DWP is encouraged by the Direct Access proposal as this will enable the department and agents it uses to look at new and innovative ways to use the payment system to become more efficient and fully utilise FPS capability.

We would welcome an exploration of the projected impacts of PSD2 and the provisions around TPPPs. We believe this has the potential to change the context within which this issue need to be considered and indeed may change the whole concept of “access” as more and differentiated versions of it come into play.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Agreed

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Agreed .

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

We have no relevant data

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

Agreed

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

If the idea of “access” as defined remains of crucial importance then the development of an Information Hub would help PSR fulfil its statutory

obligations. As stated above if it becomes a less relevant concept this may not be necessary

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Agreed.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Agreed

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

DWP has no relevant data

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

DWP's interest in interchange fees is not mainly as payer or payee but on behalf of our claimants and pensioners who will be subject to these. We would suggest only that PSR bring within its purview the whole range of charges for and around card transactions.

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and

dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

Agreed.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

Agreed.

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

Agreed

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

Agreed

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

DWP has no relevant data

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

Agree.

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

Agreed.

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

Agreed

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

Agreed

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints Guidance? If you disagree with our proposed approach, please give your reasons.

Agreed

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

Agreed

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants

organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

DWP as a maker of a large number of small payments would suggest that number of transactions be taken into account

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

Agreed subject to there being some further analysis of whether the levels do in practice act as a deterrent .

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

Agreed.

DVLA

DVLA

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

Yes, we agree with the regulatory approach.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

Yes, we agree with option 1 – to set up a Payments Strategy Forum. To ensure success the customer voice will need to be heard.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

We agree on the design of the Payments Strategy Forum.

Feedback from general public would be helpful to get a more inclusive view. This could potentially be done if DVLA had a seat on the Payments Strategy Forum. DVLA has a wide range of both commercial and consumer customers. We regularly issue paper and online surveys to gauge customer preference in the payment space. We also complete face to face surveys and regularly meet with representatives from commercial liaison groups. We also hold email and contact details for these groups. We could use these relationships to understand the customer requirements. We handle credit and debit card transactions for approx 25 million transactions each year. We have recently introduced a direct debit facility for vehicle tax.

This would provide a “people’s voice” not just high level govt bank expectation of what customers want and need from the service.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

As above SP2-Q2. A “people’s voice” is needed.

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

In addition to the following themes listed in PSR CP14/1.2 paragraph 2.113:

- **CASS and Account Number Portability (ANP) – *to include commercial as well as customer requirements***
- **Cheque imaging**
- **Messaging standards**
- **Ring-fencing**
- **Richer data**
- **Technical Access to payment systems**

We would like you to consider adding the following themes:

- **CASS and Account Number Portability (ANP) – *to include commercial as well as customer requirements***
- **Security of data**
- **Providing best practice customer advice for online payment security which is easily accessed and communicated.**

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper* and *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

We agree with the proposals set out in CP14/1.3 paragraph 3.71. However, having appropriate representation will be difficult to achieve in practice for a

wider customer base. We suggest that in addition, service-users (including customer and Indirect PSP) views will need to be gathered via a report that captured surveys, complaints and feedback (and potentially include information gathered at the Payment Strategy Forum) and listed as an agenda item at the board.

We agree with the report and evidence detailed in CP14/1.3 paragraphs 3.75.

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Dependant on the style and volume of consultation, these costs could vary dramatically. If a wide and varied geographical consultation is completed the costs could be significantly underestimated. The cost for face to face, electronic and paper surveys can be significant. Consulting using government agencies could be a solution but has a knock on cost to be met by the respective departments.

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

DVLA agree with this approach.

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

The quicker basic directions are issued the better it will be. Money and the banking sector are still highly contentious issues for the public. They should be issued as indicators and then refined once resource becomes available to do so.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously

act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

DVLA agree with the proposed direction. We have no data that will further inform the analysis. DVLA agree with the rationale behind the costs and benefits.

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

Agree with the transparency agenda. However the terms “timely manner” and “reasonably practical” need to be agreed and specified. A maximum acceptable time needs to be quoted.

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

DVLA do not have information on the impact. However the rationale behind the anticipated costs appear fair.

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

I agree but the reasons for “reserved matters” need to be stated and a timescale as to when the approach will be taken. A temporary procedure for urgent actions will need to be agreed.

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper* and *Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

Regulations that allow for increased competition are always beneficial if suitably managed. We agree this will increase innovation. Annual reporting on compliance will be helpful.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Sounds like a good idea, especially if there are periodic updates at the new Payments Forum.

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

DVLA agree, providing there is no security risk with this approach. 24/7 availability cannot be compromised during any changes or upgrades as this will have an impact on the end user experience.

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

DVLA has no data to support this cost and benefit claim.

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

Yes, we agree.

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

DVLA agree with the concept of an information hub. If feedback is not sufficient from the consultation, customers and service users should be surveyed to see if an Information Hub will be useful and what data and information will be held on there. There is a great deal of information out there already on websites, providing links to other sites may make the process easier.

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Agree. The Sponsor Bank Code of Conduct should be available via websites.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

This approach needs to be aligned with strategy. The technical access solutions need to take us in the correct direction. Compatibility will be the key to success.

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

We agree in principle with the costs and benefits and the transparency agenda. Security protocols will need consideration. DVLA does not have any data that will support this.

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

The following should be considered:

- Hidden charges, eg chargebacks
- Fees for accessing interchange data information
- The extent that fees can be altered due to security requirements
- IDA (Identity assurance)

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

We agree with the 3 principles.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

We agree.

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

We agree.

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your

response.

The first 3 principles are similar to the proposed principles. Agree with all of the additional principles, especially the new one relating to service- users interests.

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

DVLA cannot provide costs and benefits for this.

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

We agree.

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

We agree with the information in Annex 2 (CP14/1.6).

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

We agree with Annex 3 (CP14/1.6)

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

We agree with section F (CP14/1.6)

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints Guidance? If you disagree with our proposed approach, please give your reasons.

We agree with Annex 4 (CP14/1.6)

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

We agree with Annex 5 (CP14/1.6)

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

We agree with Annex 5 (CP14/1.6)

Yes, metrics other than revenues should be considered. However, the number of penalties in a set timescale should also be looked at.

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

We agree with CP 14/1.6 paragraphs 3.11 and 3.12.

There could be phased limits that increase as the number of penalties in a set timescale. Each limit would not be reached until notification of the previous penalty has been received. It should be dependent on the size of the issue. If the issue was systematic fraud then the penalty should be proportionate to the issue.

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

Agreed.

EMERGING PAYMENTS ASSOCIATION

EMERGING PAYMENTS ASSOCIATION

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

In principle, the EPA supports the approach taken by the PSR in this respect.

Of course the use of its powers in practice will determine its effectiveness. Our members are at the forefront of innovation and change in payments and many are struggling not only with access to payment systems issues but also with the availability of bank accounts.

At various consultation meetings you have indicated that availability of bank accounts is a FCA matter (or possibly CMA if a competition aspect can be shown), however this issue is so closely linked with the innovation and competition objectives that you now have, that we believe it needs positive regulatory coordination. Whilst your proposed *modus operandi* talks at length about inter-regulator coordination, we believe this must be proactive in addressing such issues rather than reactive on a case by case basis or when approached.

As such we would welcome equivalent transparency to that you are seeking from the industry, from you and your fellow regulators as to the nature of the discussions you are undertaking, relevant minutes and actions etc., together with joint / joined up guidance on relevant issues. Similarly it would be essential that all of the Regulatory bodies work in a “no surprises” coordinated environment.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

We do agree with your approach, but with the important caveat that there should be a timetable set at the outset together with some criteria for reviewing the effectiveness of the Forum.

There are many potential pitfalls for such a Forum, including:

- Lack of consensus;
- Inability to integrate strategy meaningfully with Operators;
- Lack of ownership of any associated business case / spend priorities.

No doubt your close involvement will give you insight into the Forum's effectiveness, but

participants and the industry in general should buy into what good looks like for it, which will help in supporting its success.

The PSR also needs to consider whether, by supporting the Forum, it is effectively standing behind its decisions. This is important in two respects:

- An implicit instruction to industry to work with the Forum in delivering its strategy with the underlying threat of intervention;
- Support for Forum outputs even if the PSR does not wholly support them, failure to do this will undermine the point above and render the Forum meaningless.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

As you have suggested, broad representation is essential and it must also be clear under what capacity members are acting. For example, if members are representing other organisations, they may feel that a consensus of members is required before voting. This will place a very strong emphasis on work between meetings and reduce the impact of the meetings themselves.

You mention a requirement for seniority and the ability to commit, however experience dictates firstly that individuals rarely have the power to make financial commitments on behalf of large organisations without committee discussion and agreement to detail and to get seniority a trade off is required against detailed understanding of the issues. A period of time after meetings may be required for ratification, but rigidly set and monitored by the Forum.

It will also be a challenge to set the level at which the Forum's outputs are made. In particular the level of detail around technical changes will need careful thought. Not enough understanding and detail could lead to recommendations being rejected as infeasible and too much will mean that the Forum is necessarily populated by technocrats. We favour higher level strategies designed to foster competition and innovation to the benefit of end users rather than detailed systems development plans. Indeed through such higher level strategies it may be possible to start fostering some competition between systems rather than being more directional at an individual system / Operator level.

In term of membership we suggest the following:

- One member from each designated Payment System
- One academic / visionary
- One major clearing bank payments person (active in agency banking)
- One payments consultant
- One major physical and on-line retailer
- One major non-bank acquirer
- One consumer champion
- One SME
- One major corporate
- One IAD
- One smaller bank / building society / credit union
- One EMI
- One PI
- One telco
- One on-line payments business
- One banking technology provider

- One member of the EPA Advisory Board

Where possible these should be individuals active in trade / industry bodies and with depth of experience in payments.

In terms of operating policy we recommend a 2/3 majority voting system, which seems a reasonable compromise between getting anything through and allowing any block to gain too much authority.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

To us the model seems to be struck at too low a level. It focuses on proposals and priorities, which are valid areas for consideration, but there is no mention of strategy, vision or long-term goals. To us, these would seem to be the start point, begin with the end in mind and work backwards.

There is a real danger that the Forum will become tactical and bogged down in side issues such as account number portability and miss the strategies needed to combine, replace, reinvent or otherwise fundamentally improve the payments systems.

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

We would add the following for consideration:

Euro payments – increasingly the UK is involved in credits and debits to the Euro Zone and within the UK, yet the infrastructure around these remains fragmented and patchy, for example direct debits barely exist. With the growth of currency cards, overseas home ownership, relatives living in the EU and retirement abroad, this aspect of our infrastructure is shamefully poor.

Settlement processes – the way we settle payments requires a radical re-think. With FP, payments can now be sent and received in seconds but over a bank holiday weekend settlement can take 5 days. This in turn leads to concerns around access and collateral requirements for smaller payments operators which prevent innovation and competition. Sort Codes - within the subject of messaging possibly, we should look at the necessity for sort codes and the whole basis of the domestic infrastructure. Arguably a numbering system designed around cheques is not fit for purpose for electronic payments in the 21st century.

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper* and *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

We support your approach in this area.

We believe you could better define the timescale and criteria for assessing compliance of the Operators with your direction, perhaps adding more detail of the process that this will involve and an undertaking to make public your discussions and review findings.

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Yes.
No.

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

The approach has a number of limitations as acknowledged in SP3. Whilst there is undoubtedly merit in ensuring that no individual sits on Boards which de facto creates a conflict of interest, the issue around organisational conflict, where Direct PSPs effectively control all the systems is not addressed.

It is entirely conceivable that the representatives of the big banks on the various Boards will all work in the same division of that bank, possibly with direct reporting lines amongst them. Supposing a "Chinese Wall" around conflicts of interest generated by this is a big supposition, indeed the lack of this has been a perceived weakness in the operation of the Payments Council.

However, combined with the need to publish minutes and ensure independent service user representation, it should be possible to monitor behaviour and this will be the key to successful implementation rather than direction.

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

Yes, providing there is a clear process in place for dealing with such conflicts as they arise.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Yes.

No.

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

Yes, as outlined above this will be a key measure of behaviour of Operators and their owners. Of course the minutes will need careful review and interpretation by the PSR, we are assuming this has been incorporated into someone's job description.

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Yes.
No.

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

Yes, subject as indicated, to a review of the position if the anticipated action fails to materialise satisfactorily.

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper* and *Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

We would like to comment initially in an holistic manner in relation to your access proposals. Our strong view, particularly from talking with a number of smaller payments players, is that a piecemeal approach to improving access rules will not deliver the results required. Gaining the necessary permissions, delivering a range of different technical requirements across multiple operators and addressing different sets of collateral and other settlement issues will be daunting and far too complex for many players within the industry.

We strongly believe that what is needed is an institution (under current rules this would need to be a credit institution) which has a significant business focus (i.e. probably its major raison d'être) on providing payment services to the Financial Services industry.

This should not be an existing major clearing bank or owned by one (or several); they have too much baggage, too many overseas interests and too many competing claims on their resources, brand equity and competitive position. This has been exemplified by your view of the failure of the Payments Council to deliver change at the pace that is needed and the issues arising around sponsorship and indirect access.

We believe there is a significant role for the PSR in proactively encouraging and actively engaging in such a development. We are currently strongly considering starting such a process via RFI / RFP to the payments infrastructure players and this would be greatly enhanced by proactive involvement from the PSR, as opposed to the approach currently proposed which we summarise as tweak the rules and see what happens.

Whilst we do not think the market review is a bad idea, the length of time it will take and the fact that it intends to review the impact of the other measures you are introducing, which in turn will take time to have an impact and thereby delay any firm conclusions, will mean that this country wastes another 18 months in reaching the conclusion which our part of the industry has already reached, which is that the indirect access model is fatally flawed and requires a radical alternative approach (we outline such an approach above).

We do not believe that it is in the interests of UK PLC to postpone action on this agenda, particularly given the impact of PSD2 regulation (in broadening the opportunities for third party processors), the explosive growth in the FinTech sector, the major issues around the availability of services to the remittance market and the difficulty of innovative new competitors in finding bank accounts and payment gateway services. When combined with the increased regulatory requirements on the sponsor banks in terms of capital, liquidity, approved persons, AML legislation and difficult market conditions, we predict very slow progress.

We believe a much more proactive regulatory approach is required, focussing on creating a viable alternative solution rather than trying to force (at least partially) unwilling existing providers to deliver it.

Our responses to Section 4 are written in the light of this view.

We do not object to your Access Rule proposal however, as outlined above, we believe that trying to solve this problem by improving rules rather than addressing requirements will not produce the results needed to deliver on your innovation and competition objectives.

The guidance section may need to be expanded to ensure alignment between the owner, operator and sponsor required to access a payment system, to provide clarity around the application process and any interdependencies. In considering FPS as an example, the scheme itself and its operator may publish access rules which appear acceptable, however if few or no banks are willing to sponsor the access or make it commercially viable to do so, how does this get resolved (see our above point re the need to create a player that wants to do this)? Can access rights and criteria be specified and defined in the context of the status of the institution looking to join – e.g. Credit, Payment or E-money institution?

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Yes – the concept of a reporting rule is appropriate, however you will need to clarify the outputs and whether there is a case for penalties for non-conformance. In addition to the requirement to report on compliance with access obligations, operators could be asked to

provide KPIs and in time targets on new access volumes. This would show success in terms of new players gaining access to payment systems.

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Yes in principle we support the public disclosure of access requirements, however you need to be watchful that this doesn't drive the wrong behaviours i.e. information becomes broad and generic rather than granular and appropriate. The requirements should ideally not be open to interpretation and sufficiently precise such that operators implement the services in a consistent manner.

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

In general the key benefits are covered, however you need to be watchful that during the transition period over to these new rules current key agency sponsors do not react adversely and reduce access services in the short term.

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

It is critical for Sponsor Banks to publish information on access. This should be inclusive of all details to successfully engage and access to payment systems. The access related information should include technical access options, risk assessments and requirements, compliance reviews and commitments for continuity of service. Terms of reference for joining the scheme via a sponsor must be clear and the obligations for all parties set out. If there is a requirement from a sponsoring bank for third party auditing, then the scope should be published together with a list of approved third party auditors.

The fact that sponsorship is not a major focus for the current sponsoring banks is reflected in the current situation and we doubt whether information requirement publication will herald a significant shift in the availability of services and may have the opposite effect of taking some players out of an already sparse market.

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Collating all the information about accessing payment systems in one location makes sense. Possibly, the PSR could consider doing this itself rather than expecting industry to do so. Keeping this information up to date and current is important as businesses can spend a lot of time attempting to find the right people to talk to, when seeking access to payment systems.

SP4-Q7: Do you agree with our proposed approach in relation to the development (by

industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

A code of conduct can be helpful. However to join a payment system – such as FPS, one needs to speak to the scheme, source a technical connection and a sponsor. It is conceivable that all parties will individually conform to the “new world” but access could still be slow and problematic. Therefore a code of conduct for all players involved in a payment system might be an effective way to ensure alignment between all parties e.g. for accessing FPS, the scheme, the operator and all settlement / sponsor banks sign up to the same code of conduct document.

We are concerned that some benefits may be lost in execution. It is unlikely that “one size fits all” will be the best model here, the range of services may vary widely and broader relationships between sponsor bank and sponsoree may come into play. As such the code of conduct will need to be very carefully drafted to avoid unintended consequences.

Has the PSR considered what a good number of sponsor banks is? Will pressure be brought to bear on the major banks to participate in this activity if they appear reluctant (in the face of new requirements)? We have received feedback from some members that there is a new round of clearing banks exiting the third party FI market.

You need to be watchful in the implementation phase that sponsor banks do not use new requirements as an (invalid) excuse to increase prices under a new regulatory regime. As outlined above, we have significant reservations that trying to improve the behaviour of current sponsor banks will deliver the required results.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

The development of technical access solutions is to be encouraged as it is part of the opening access agenda. The certification of such technical access gateways or solutions may be completed by the scheme itself, rather than the operator (who is still involved in the certification process). In an ideal scenario, there would be several access gateways each with its own value added services to sell on to others and PSPs seeking to join the payment systems.

You need to be watchful that in implementing such proposals that commercially viable models emerge in support of the competition and innovation objectives.

We have significant reservations that this approach will deliver the results required, as outlined above.

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

Yes in principle, but the PSR needs to monitor closely to ensure measures drive the right behaviour. The link between settlement/collateral and technical solution needs more clarification to ensure full benefits are delivered.

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

Interchange fees are but part of the overall package of fees flowing as a result of a card transaction. They have understandably received the greatest attention as they form the bulk of the issue and the powerful retail lobby has been making its case strongly.

However, we would recommend a thorough detailed review of the pricing practices of Visa and MasterCard, both interchange and issuer charges, as members have brought to our attention significant anomalies in terms of transactions at PoS outside the EU and various other arbitrary and apparently unfair fees charged.

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

Yes. We believe the industry would welcome guidance on how you intend to monitor these Principles and what will be published in respect of your monitoring and internal discussion.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

Yes.

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

Yes.

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply?

Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

No, we believe all these points are adequately covered by the other measures that you are adopting in combination with the three proposed Principles and the existing FCA and PRA commitments.

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

Yes.
No.

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints Guidance? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

Yes. Experience will dictate whether it is sufficient but we do not see any need for any other system at present. One thing which is not clear from the documents is the extent to which individuals might be held accountable. This has been the subject of much debate and is currently being consulted on by the FCA. The PSR should make it clear whether

individuals who are not caught by another approved persons regime (e.g. CEO of an infrastructure provider) may be subject to personal accountability.

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

No, see above.

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

Consideration should be given as to whether redress of any actual losses should be added to the limit / PSR remit or whether this remains solely a matter for the courts.

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

Yes.

FASTER PAYMENTS SCHEME LIMITED

FASTER PAYMENTS SCHEME LIMITED

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

Yes.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

Yes.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

Gaining timely agreement to the strategic direction, portfolio of change projects and allocation of change costs to a sector as diverse as payments is challenging. The PSR will have to play a particularly active role in ensuring an appropriate balance between broad, potentially conflicting, stakeholder views and timely and effective decision making. The PSR will also have to play a critical role in ensuring that there is a clear perception that views have been properly considered and appropriate decisions have been made – not everyone will be happy all the time. The PSR will also have to ensure that the Payments Strategy Forum is the only place such overall strategic and prioritisation decisions are being made, although some of the elements being considered may not be optional, given statutory requirements for change by particular deadlines. Good examples of these might include the provisions of retail bank ring-fencing and PSD-2 which will not be within the gift of the PSR to reprioritise. Requests from other stakeholders, no matter how influential, cannot be allowed to override these decisions if we are to move forward from the current situation. Given the unusual degree of cooperation and collaboration needed between stakeholders in many aspects of payments, we believe that The Payments Strategy Forum is a good place for the PSR to give guidance on which issues are in the competitive domain, and which require collaboration, and between whom. The PSR should quickly consider whether the existing Payments Council Government Coordination Committee (GCC) should be brought into the overall governance model by moving to

becoming a reporting working group of the Payments Strategy Forum.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

The model proposed is a good high-level view of how to approach this difficult task. The true complexities and challenges will only fully emerge once we start trying to operate the model. This should not stop us from proceeding in this direction, but will need to be considered as we move forward. In particular, thought will need to be given as to how prioritisation will occur. Some strategic options will impact on the ability to do other things and a clear mechanism for understanding and delivering on this will be required. The other core issue will be funding for initiatives. Coordination of potential funding of industry beneficial initiatives will be critical to successful delivery.

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

We believe that the Payments Strategy Forum will additionally need to consider three areas: There is growing need for coordination of strategy around cyber risks and mitigations between payments systems and users as well as developing common approaches to AML and Fraud issues. Additionally, an industry approach to the provision of account access and/or payments initiation services to Third Party Payments providers (TPPs) is a growing service user issue and is likely to be brought to the fore by PSD 2.

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper* and *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

Yes. FPSL agrees that there must be appropriate representation of the interests of service-users in discussions and decision-making at board level. We have been taking the first steps in this direction over the last few years using the Electronic Affiliates Group to gather a broad range of inputs from service users and recruiting independent directors to our board. In 2013, when we appointed our first independents, we ensured that they had available to them the power to veto any board decisions not in the public interest – you reflected this in your consultation document. In addition to this, also in 2013, we specified in their job descriptions that independent directors should

'ensure the Scheme strategy represents all the Scheme's members and other stakeholders such as indirect participants and end users (consumers, industry, regulators, and public policy)', and 'ensure that consumer, industry, regulators and public policy interests are represented at Scheme Board meetings and considered when developing the Board's

strategy; and take a particular interest in any advisory panels or user forums which may be set up as part of any stakeholder consultation process.'

As part of this requirement, independent directors now attend the Electronic Affiliates Group and are also being aligned with potential new direct participants in the scheme during the joining process so that the new participants have an independent and direct link to the scheme board from an early stage in the process.

Synthesising the diverse interests of service-users in a way that is transparent, and efficient, will be challenging. The further development of the Electronics Affiliates Group is a good starting point, but there is much work to do. We intend to coordinate our efforts in this area with the other Interbank schemes to ensure efficiency for all parties, especially for the various consumer and other interest groups that will need to be engaged.

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

While there may be some small incremental costs associated with the reporting requirements laid out in the consultation, we do not see any incremental costs associated with providing service user representation in board decision making beyond those steps we have already taken and planned to take anyway. We recognise the benefits you describe and we already have two independent directors and an independent chair that must ensure the interests of service users, and the public interest are properly considered in all board decision making. They will continue to engage in user fora like the Electronic Affiliates Group and directly engage with potential direct and indirect participants of the system to ensure proper and direct representation.

It is important to note that while each individual requirement from the PSR may not generate substantial incremental costs, the individual costs additionally associated with SP3-Q7, SP4-Q4, SP4-Q9, and of course the PSR setup costs and ongoing annual fees that will be charged to Payment Systems Operators like FPSL, will place a significant additional cost on the scheme. A cost which, as a not-for-profit company, must be funded by participants.

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

Yes.

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

Yes. We believe that we have a well-defined set of processes to identify and manage conflicts of interest within the governance of the scheme. These are processes that have been exercised with respect to the recent re-commissioning of our supply agreement with

our infrastructure supplier and were high-lighted as a case study within the Accenture Governance report.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Yes.

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

Yes. We assume that this direction will apply to all board meetings held from 1st April 2015. This should allow the scheme time to develop an appropriate redaction policy and for the PSR to ensure consistency in approach across all regulated parties. We have no objection to publishing records of votes and reasons for decisions. We would however note that final bullet of CP14/1.3 para 3.177 (requiring a statement from independent directors saying how, for each board decision, they have exercised their discretion related to public interest matters), will need to be implemented in a proportionate manner. Given the current frequency of board meetings, quarterly, and the need to gain sign-off from non-executive and independent non-executive directors, the publication timetable will need to be sensibly determined.

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

We believe that production of publishable minutes, and application of an agreed redaction policy will increase the costs of scheme governance, but we do not believe this is significant overall.

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

Yes, FPSL and Payments Council formally terminated their relationship agreement and with it the reserved matters on 16th December 2014 and therefore no direction to FPSL will be required.

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper and Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

Yes. However, for efficiency and simplicity we strongly recommend that Principle 18 should be interpreted the same way by both the PSR and Bank of England. For similar reasons, while we would continue to expect the Bank of England to be the lead regulator, in general, for the application of the Principles for Financial Markets Infrastructure, it would be helpful if the PSR led the review of specific compliance with Principle 18 on behalf of both regulators. To the extent that the PSR wants to add more specific requirements, these should be articulated as additional requirements, rather than different interpretations of the existing principles.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Yes. The reporting timetable needs to be aligned with those of the Bank of England for the full CPMI IOSCO self-assessment and disclosure so that the annual process can be done efficiently.

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

We have no comment to make.

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

We do not believe that the Access and Reporting Rule will generate substantially greater benefits or costs from those we are already incurring and planning for in executing our own strategy for enhancing access. We disagree with your estimates of the costs the Operators will incur in delivering an effective Access Package in CP14/1.4 para 4.180 and note 70. FPSL already has more than 5 FTEs working on Access today and has allocated further budget for this in the future.

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

Yes. We welcome steps that will help the Indirect Access market function effectively.

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

While we support the development of an Information Hub we believe the requirements for it, and the consequent benefits that can be delivered should not be overstated. There are a limited number of parties that seek access to this type of information, probably in the order of 150 – 300 in total. Sign-posting from this hub to www.fasterpayments.org.uk will be beneficial.

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

We agree that a common/generic Sponsor Bank Code of Conduct should be developed, specifically by the sponsor banks engaging with their Agency customers, and that approval by the PSR will be beneficial.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

We welcome the PSR's support for encouraging the development of a variety of competitive Technical Access Solutions to Faster Payments, and where relevant, to other systems and services. We believe that our own plans are consistent with this approach - see our White Paper, '*Faster Payments – A Vision for a New Access Model, Opportunities for Payment Service Providers and Solutions Vendors*' published on the 8th December 2014, and downloadable from our website. This consistency eliminates one of the most significant risks posed to our strategy, namely that third parties fail to engage with us as they hold out for some form of other regulatory intervention. We believe the time is right for the development of these competitive solutions, and that further specification from the PSR is not required at this stage, although we continue to welcome the PSR's strong interest in their development.

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

We do not see substantial incremental benefit or costs arising from these Indirect Access

proposals over and above our own plans and the significant investments we are making in this area. FPSL wishes to see its real time payments capability made available to all the service users that require it, independent of their access mode. These proposals support that aim.

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

We have no comment to make.

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

Yes, although we note that Principle 3 already applies to FPSL via the CPMI IOSCO PFMIs and our supervision by the Bank of England.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

Yes.

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

Yes. We believe that FPSL is already subject to these requirements via the CPMI IOSCO PFMIs, but support the extension to Central Infrastructure Providers. The locus of responsibility on these matters between the PSR, and the Bank of England as supervisor of the designated FMIs will need careful management

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

As an FMI, we are already subject to the CPMI IOSCO PFMI. The board directors have Companies Act responsibilities. Given this, and because the PSR is being established as an Economic Regulator, not a Conduct Regulator, we do not believe that it is either necessary, nor appropriate for the PSR to take on additional conduct principles from the FCA – a Conduct Regulator.

Related to this point, while we understand the cost advantages of the PSR being operated as a subsidiary of the Financial Conduct Authority, we are very surprised that the PSR Board has been established wholly from within the FCA Board. While some overlap is clearly beneficial, we believe that not only must the PSR executive include a strong economic regulatory skill set and capability, but this must also be reflected in the composition of the PSR Board which oversees the executive.

In its response to the consultation about *Opening Up Payments*, published in October 2013, HM Treasury stated in para 2.11 that

'While the Government wants the Regulator to benefit from synergies with existing FCA resource, it is also important that it has the freedom to develop its own strategy for meeting its payments objectives.'

and in para 2.14 that

'the Payments Systems Regulator will adopt a utility-style approach, distinctive from the FCA's existing remit. The PSR will have a distinctive role to that of the FCA and will require a different set of skills in order to fulfil that role'.

A PSR Board made up entirely of a subset of the FCA Board does not seem to promote the possibility of the PSR having a distinctive role to that of the FCA, and may blunt its effectiveness as a true economic regulator.

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

For FPSL we see no incremental benefits or costs associated with compliance with the three proposed high-level principles.

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

Yes, in general. However, we would like to see a more symmetrical set of deadlines for formal interaction between the scheme and the PSR. For example, paras 4.2 and 11.1 in Annex 3 to CP14/1.6 require the scheme to respond to a request from the PSR within 14 days, while para 1.0 in Annex 4 of CP14/1.6 allows the PSR up to 90 days to respond to a request to it. Given the size of many Payment Systems Operators, at least 28 days to respond, to allow for critical staff being on annual leave, for example, would seem more appropriate.

In paras 5.1 and 5.2 in Annex 3 to CP14/1.6 the PSR is not currently required to formally communicate to PSOs when consulting on the provision of a general direction or imposition of a generally-imposed requirement. Given that there are less than ten designated PSOs, it does not seem unreasonable for the PSR to be required to communicate formally to each PSO that such directions are being considered.

In para 6.2 we do not understand why the appeal route to the Competition Appeals Tribunal (CAT) available for specific directions or requirements is not also the appropriate appeal route for general directions or requirements. The restriction to Judicial review seems a disproportionately high hurdle versus the CAT.

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints Guidance? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

Yes.

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

No. The use of value of funds transferred could be highly distortive as any detriment being addressed is unlikely to be aligned to the value of funds involved and could expose the scheme to an unmanageable regulatory financial risk. Ten per cent of funds transferred for FPSL would amount to a fine of over £100 billion!

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

An extreme upper limit of 10 per cent of scheme costs/revenue would seem proportionate. However FPSL operates on a not-for-profit/cost recovery basis and the incremental cost of any fine would have to be recovered from all system participants. There is no profit margin/shareholder return or dividend that can be used to fund such a fine.

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

Yes. However, we are concerned that the interplay between fines and the Financial prudence principle, expressed in 6.101 and 6.102 in CP14/1.6 would be unworkable unless the upper limit on penalties is set proportionately and pragmatically. If FPSL were required to have in place funding arrangements to deal with a fine of 10 per cent of value transferred, then even a very small system participant, perhaps with 0.1 per cent of system volume would be potentially exposed to a liability of £100 million as their share. This would represent a very significant regulation induced barrier to participation.

FINANCIAL SERVICES CONSUMER PANEL

FINANCIAL SERVICES CONSUMER PANEL

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

Payment Systems Regulator
Consultation response team
25 The North Colonnade
Canary Wharf
London E14 5HS

12 January 2015

Dear Sir/Madam,

PSR CP14/1 – A new regulatory framework for payment systems in the UK

This is the Financial Services Consumer Panel's response to the Payment Systems Regulator's consultation on the new regulatory framework for payment systems in the UK.

We welcome the general direction being taken by the PSR.

We agree that long-term priorities for the industry should be determined so the PSR can facilitate the development of new or improved services as soon as possible. However, the history of change in payments systems has thrown up examples of unintended consequences, for example, the badly thought through plan to abolish cheques. It is therefore important that sufficient time is built in to the plans, to ensure that both the technological challenges and what businesses and consumers want and need from payment systems are properly considered.

Fair, reasonable and non-discriminatory direct access to payment systems should be available to all banks and building societies, as well as to other types of provider. Although not a PSR responsibility, it is evident that access to payment services generally requires businesses and individuals to have an account with a bank that is either a direct or indirect member of the main payment operators. Refusal of banking services or forced closure of bank accounts prevents legitimate businesses and consumers from having access to the full range of payment services. This is a particular issue for businesses that want to develop new payments services, and is a barrier to competition. We hope that PSR will consider this issue further in its proposed market reviews.

The Panel looks forward to engaging with the PSR in the future.

Yours faithfully

Sue Lewis
Chair
Financial Services Consumer Panel

GLOBAL PAYMENTS UK

GLOBAL PAYMENTS UK

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

GPUK welcomes the introduction of the PSR within the UK industry, and is broadly supportive of the high level approach outlined within the consultation paper.

It can be noted however, that the PSR when implementing its regulatory framework, need to give consideration as to how far reaching the scope will be. As HM Treasury will confirm on the 1st April 2015 the payment systems that are to be designated, the participants within each system are deemed to be in scope. However, when considering a 4 party card scheme, such as MasterCard & Visa, there are many potential participants within the industry, from Merchant Acquirers, such as GPUK, to IT providers such as payment gateways and shopping cart providers. As the resources available to the PSR will be limited, consideration on how to ensure all participants are working in line with your regulatory framework needs to be given to ensure there remains a fair and equal playing field within the industry, and that it does not result in any unintended consequences for industry participants, and ultimately the end users.

The PSR may also wish to give consideration around the 'no surprise' culture it sets out within this paper. Whilst it is important the PSR should continue to strive to achieve its objectives through open and honest relations with the Payment Systems, and their participants, there could be a clear conflict when commercially sensitive information is involved.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

Whilst there are clearly benefits to the Payments Industry in implementing option 1, consideration needs to be given on how the various stakeholders across the payment systems will be appropriately represented when using this option. As the designated Payment Systems vary considerably in use and requirements, there is also a concern about the lack of knowledge across all payment systems to allow the forum to set a strategy that is appropriate for the UK, and ultimately provides enhancements and stability to the end user.

There is also a concern that if not all stakeholders have a direct link into the forum, then the required strategy for Payments in the UK will become stilted. That said, the forum needs to be manageable,

with a clear terms of reference to allow decisions to be made, with transparency and a full understanding of the requirements and results required.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

As detailed in SP2- Q1, there is a concern that all stakeholders will not be adequately represented leading to difficulties in implementing the strategy across the industry, and due to the varying differences across the payment systems, the knowledge required to set an appropriate strategy for the whole industry could be compromised with only a few seats on the forum.

The PSR and the forum may wish to consider using a consultation approach to the strategy, seeking the input on proposals from all relevant stakeholders.

Alternatively, the forum could consider creating sub groups that look at strategy within a particular payment system, with appropriate representation on these sub groups and end users represented throughout. The forum will then look at the overall high level strategy for the UK, ensuring the sub groups are part of the decision making process.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

There needs to be a transparent process for choosing who should sit on the forum, and clear guidelines provided as to how those on the forum accurately reflect the views and proposals across the whole industry.

Each stakeholder needs to have a clear understanding of how they can access the forum, and have up to date access on the strategy proposals and decisions.

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

No

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper* and *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

Whilst GPUK agree with this proposal to have service user representation at board level of payment system operators, it is worth noting that MasterCard and Visa already provide various service user working groups as part of their governance structure, which continues to work well.

GPUK would welcome this proposal as an opportunity to formalize this existing structure for the card

operators providing a greater level of interaction between these working groups and the board.

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

Whilst GPUK agree in principle with this proposal, and support greater transparency around decision making and voting records, there are concerns on how the card scheme operators can fully adhere to this proposal, in particular MasterCard. It is understood that sensitive information can be withheld from the minutes; however the concern remains on how useful these minutes may be once all sensitive information has been redacted.

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

No comment on the cost/benefit analysis, and no further data to provide to enhance the PSR research.

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper* and *Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

GPUK is supportive of a reporting requirement for the payment operators to show compliance with the access requirements.

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

GPUK is supportive of the publication of access requirement, as this will help with transparency around payment scheme requirements for all service users. However, it should be noted that access requirements can be complex, and can be updated on a regular basis, with not all requirements applying to all services users. Therefore care needs to be taken when the operators make their requirements public so not to create confusion within the industry.

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

GPUK is supportive of this proposal.

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

GPUK would like the PSR to consider the timelines for implementation associated with the Interchange Fee regulations. There are impacts on both end users/merchants as well as industry participants such as Merchant Acquirers, and an appropriate length of time to make the required changes would be welcomed.

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

GPUK is broadly supportive of the high level proposals outlined within the consultation paper. The PSR may want to give further consideration to the practicalities of assessing participants compliance adherence, especially where it may be unclear whether a company is in scope of the regulations or not, and is in fact a participant within a payment system.

GPUK is not suggesting a more prescriptive regime such as the licensing scheme the FCA adopts, however it would welcome clearer guidance on the reach of the scope.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

As per comments to SP6 – Q1, GPUK are broadly supportive of the approach to include participants, though would welcome further guidance on the reach of the scope of participants e.g. is a shopping cart company in scope of the card payment system?

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

Yes, GPUK is supportive of this approach.

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

Whilst GPUK has no objection to the PSR including the additional 6 principles within the remit of their regulatory obligations, care needs to be taken to understand the cost on businesses to achieve and maintain compliance, as these are costs often passed onto the end users through the cost of the service offered.

It is also unclear how the PSR and FCA will continue to remain separate and have different objectives to each other, as many of these additional requirements are similar to the FCA requirements and appear

to be based from the 11 principles of business.

It appears to be unclear as to whether the PSR is to be an economic regulator as is currently prescribed, or if there is now a move towards becoming a conduct regulator, or indeed a combination of both.

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

GPUK has no comment to make on your proposed objectives guidance.

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

GPUK welcomes the approach set out within the proposed administrative priority framework whereby the PSR will consider the impact, strategic importance, the risk and resources when looking into which investigations they open and continue.

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

GPUK is broadly supportive of the Powers and Procedures guide, and the aim to have participants self certify their compliance on an annual basis into the PSR.

However the PSR may wish to consider how they will conduct their testing and assessments of compliance where the proposal is to engage with service users directly.

It may be true to say that many service users will not be fully aware of the PSR's compliance requirements, so asking for their views on participants compliance with the PSR's directions may not provide you with an accurate result.

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

GPUK is supportive in principle of the proposed approach for dispute resolution; however there are concerns as to how this function will operate in practice due to the limited resources available to the PSR.

The Financial Ombudsman Service already offers a dispute resolution service for most end users if they are unhappy with the payment service they have received from their supplier.

It may be beneficial to limit the type of resolution the PSR will consider to those not already covered by the Financial Ombudsman Service as if not there may be an opportunity for end users to raise an issue with both FOS and the PSR unnecessarily.

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints Guidance? If you disagree with our proposed approach, please give your

reasons.

GPUK has no comments to make on the proposed approach for super-complaints guidance.

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

GPUK welcomes the PSR's approach towards setting penalties whereby many factors are to be taken into consideration to ensure an appropriate and relevant penalty is applied.

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

GPUK would be supportive of other factors to be taken into consideration by the PSR to ensure the penalty for a failure remains proportionate and fair.

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

GPUK is not supportive of unlimited penalties, and would welcome the introduction of a maximum penalty of 10% of annual revenue.

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

Yes, GPUK is supportive of this proposed approach.

GOVERNMENT DIGITAL SERVICE

GOVERNMENT DIGITAL SERVICE

GOVERNMENT DIGITAL SERVICE

The Government Digital Service (GDS) is leading the digital transformation of government, making public services digital by default, and simpler, clearer and faster to use. We work with Departments such as DWP on the development of new platforms and services that allow users to transact digitally with public services. Where appropriate, GDS and departments look to develop/use shared cross-government platforms, which provides a consistent, simpler experience for users and a more efficient and effective service for government. For example, GDS designed and operates [GOV.UK Verify](#) which allows users to prove who they are online so they can use government services safely. Services from HMRC, DVLA and Defra are already using this platform in 'beta'; other services will start to use [GOV.UK Verify](#) during 2015.

As referenced by the DWP in its response, the Crown is the single largest user of the UK's payments infrastructure. GDS is considering how public services interoperate with payments infrastructure in the light of a rapidly changing payments landscape and developments in related areas such as identity assurance. GDS would welcome collaboration with the new regulator in its role of developing a strategy for the UK payments sector so as to align public and private sector initiatives to meet users' needs for digital services.

HMRC

HMRC

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

Overall, HMRC strongly supports the approach and recognises the value of PSR.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

Yes – agree option 1.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

No comments on proposed design. As a key stakeholder, HMRC would welcome the opportunity to be represented on the Forum.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

No comments.

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

HMRC would like PSR to address the need to improve the customer experience by introducing standardised reference validation at point of payment across the sector for all payment methods. HMRC currently deploys significant resource to regularise and bring to account payments made with missing or incorrect reference data. We understand we are not the only stakeholder/organisation in this position who want the banking industry to develop/implement solutions. We would be very happy to work with PSR and the industry

on this.

We were also pleased to see the reference to Account Number Portability (pages 9/10) and would, similarly, be keen to feed into the work PSR/FCA will be undertaking.

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper* and *Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

Yes.

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Agree costs/benefits in principle. Unable to provide any relevant data.

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

Yes.

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

Yes.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform

our analysis of the likely impact of our proposed direction?

See response to Q2.

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

Yes. Fully support this very sensible idea.

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

Yes.

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

Yes, in view of comments in paragraph 115.

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper* and *Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

HMRC supports this proposal.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Yes – agree.

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

Yes.

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

Yes – agree, but unable to provide any data.

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

HMRC fully supports this approach.

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Agree industry should develop IH. But strongly recommend PSR should have oversight/partnering role to ensure the Hub remains unbiased and not pointed in a particular, favoured, direction.

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Yes – to development of PSR approved Code of Conduct and approach, with contingency of more prescriptive approach by PSR if unable to secure full commitment from Banks.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

Yes – agree proposal to continue to work with industry to develop TA solutions, but would expect PSR to take more prescriptive approach if unable to secure full commitment and/or

make progress.

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

Yes. Unable to provide any data.

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

HMRC is keen to support innovation and competition in payment systems and we would be keen to see any changes that improve transparency and/or open up markets.

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

HMRC strongly supports the proposed principles.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

Yes – fully agree proposed approach.

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

Yes – agree.

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

Yes –agree approach and proposed participants.

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

Yes –agree, but unable to provide any data.

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

Agreed.

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to cover? If you disagree with our proposed approach, please give your reasons.

Proposed approach agreed.

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

Yes – agreed.

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

Agreed.

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints

Guidance? If you disagree with our proposed approach, please give your reasons.

Yes – agreed.

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

Yes – agreed.

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

Yes.

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

Penalties need to be suitably punitive. But, an upper limit is also sensible, so 10% of annual revenues or billings etc appears appropriate.

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

Yes – agreed.

HSBC BANK PLC

HSBC BANK PLC

Question in relation to our proposed regulatory approach (see Part B of our *Consultation Paper* and *Supporting Paper 1: The PSR and UK payments industry* for more details)

SP1-Q1: Do you agree with our regulatory approach? If you disagree with our proposed approach, please give your reasons.

We agree with the PSR's proposed regulatory approach.

Questions in relation to our proposed approach to payments industry strategy (see Part D of our *Consultation Paper* and *Supporting Paper 2: Payments industry strategy and areas for collaboration* for more details)

SP2-Q1: Do you agree with our proposed approach (Option 1) to set up a Payments Strategy Forum, as opposed to Option 2 (maintaining the Payments Council's or a successor body's role in setting industry strategy) or Option 3 (we develop high-level priorities for the industry ourselves), as described in *Supporting Paper 2: Payments industry strategy and areas for collaboration*? If you disagree with our proposed approach, please give your reasons.

We agree with the PSR's recommended Option 1; however we would like to highlight our recommendations set out in **SP2-Q2** and **SP2-Q3** below.

Careful construction of the Payment Strategy Forum's (PSF) governance is essential to ensure it delivers representation for all stakeholders, and a clear mandate for change, backed by a positive business case. The implementation and management of the PSF will be crucial in order to provide the right outcomes for end service users and thereby deliver the PSR's regulatory objectives.

We would recommend that the minutes be published to ensure transparency and inclusion for all interested parties.

SP2-Q2: Do you have any comments on the design of the Payments Strategy Forum? In particular, please comment on how the Forum could meet the need for broad stakeholder representation while still being effective.

HSBC supports the PSR's proposal to establish a Payments Strategy Forum (PSF) and that it will not seek to set industry strategy, as this is not the role of a regulator. We feel by owning the secretariat function and managing the PSF, the PSR will be able to help deliver industry change at the required pace, by setting high-level policy objectives.

To meet the needs of all stakeholders effectively, the PSF will need a steering group to take decisions, whilst still being responsible to a wider plenary body. The governance of both the group and plenary is crucial, and must balance the interests of all parties, regulators, service users (personal and business), PSPs, suppliers, and financial institutions of all sizes. We are sure the PSR will continue to work collaboratively with the Payments Council to deliver on these aims.

Implementing and managing the PSF will also be crucial in order to provide the right outcomes for end service users, and thereby deliver the PSR's regulatory objectives. We

have highlighted a number of areas that are crucial to delivering this goal:

- a. **Composition:** CP 14/1 refers to the need for the PSF to represent all service users, ensure that all voices are heard, and all views are taken in to account. Given the terms of reference for the PSF are not yet available, we would seek further clarity on its precise composition.
- b. **Representation:** It is important that members of the PSF have sufficient knowledge and expertise to inform discussions and the decision-making process. Care is required to ensure that all service users participate in the forum. Participants role must be to serve service users and the industry they represent.
- c. **Prioritisation of proposals:** It is currently not clear how the PSF will review, filter, prioritise and achieve consensus on which proposals should be taken forward in order to deliver World Class Payment Systems for the UK in line with the PSR's core objectives. The PSR has explained that it will resolve any potential impasse within the PSF but further clarity around the process that would follow is required.
- d. **Funding:** Once outcomes have been identified and resulting projects defined, we are not clear how the delivery of such initiatives will be funded.
- e. **Delivery:** We agree that the industry should be held accountable for delivery on strategic priorities, and that implementation should take place outside the PSR and the PSF. It is not yet clear how the industry would work with the PSF to ensure outcomes are being delivered, and how strategic priorities will lead to individual industry projects.

SP2-Q3: Do you have any comments on our indicative model for how the Payments Strategy Forum could operate in practice?

It is essential that the PSF looks at a wide range of issues, including an assessment of the industry's planning and capacity for change, in response to upcoming and existing UK/EU/international regulatory requirements.

This will require a business case model which evaluates and balances all interests, and provides all economic actors with the confidence to invest for the long-term. This should inform a UK payments plan which can withstand political interference. Completion of the market study into infrastructure governance, ownership and control will be essential before finalising the target operating model for the PSF.

The PSF will also need subsidiary workstreams on technical, operational, and risk issues, and will also need to consider establishing dedicated working groups that report into the PSF for individual initiatives. We suggest that industry provides the key support for establishing these workstreams. Agreement of a funding model for any collaborative industry projects will be crucial.

SP2-Q4: Are there any additional infrastructure-related themes you believe we, or the Payments Strategy Forum, should consider? If yes, please provide a description of why the additional themes are important to you.

Ring-fencing: represents very significant infrastructure changes for all UK banks and will limit their ability to change payments systems during the development period. It also raises a key question regarding payments routing. This must be considered in a strategic sense (including an evaluation of EU and international routing standards), given banks need to take decisions on ring fencing, and the potential impact on the industry in the long term.

Richer data: including the wider topic of enhanced data and how this can benefit service users.

World Class Payments System: an industry initiative to define and deliver a streamlined and customer-centric UK payments system, which provides a collaborative base from which to build and launch innovative and competitive payment propositions.

Fraud and security: will be especially important if the PSF determines the need for major structural change or technical innovation. Cyber security will require collaboration and support across the payments industry.

Identity: consideration of whether a central utility could be created to facilitate the identification of consumers with potential expansion for SMEs.

Payment Services Directive 2: when finalised in 2015, this may require PSPs to provide access to customers' accounts to 'Third Party Providers' for the provision of payment services. Undertaking this securely and efficiently will be a significant challenge for PSPs and the UK payments system as a whole.

Questions in relation to our proposed approach to the ownership, governance and control of payment systems (see Part E of our *Consultation Paper and Supporting Paper 3: Ownership, governance and control of payment systems* for more details)

SP3-Q1: Do you agree with our proposed direction requiring all Interbank and Card Operators to ensure that there is appropriate representation of the interests of service-users in discussions and decision-making at board level? If you disagree with our proposed approach, please give your reasons.

It is important that the interests of all service users are taken into consideration and that all stakeholders ensure appropriate decisions are taken at board level. However it is also important not to create unnecessary bureaucracy. Representing the interests of all service-users in board discussions and decisions will require active management by the scheme companies.

This could be achieved by:

- Publishing annual plans, including issues for discussion over the next twelve months
- Consulting on key issues and decisions ahead of board meetings, and on proposed industry developments or changes
- Quarterly or bi-annual service user meetings
- Effective online communication between the scheme and service-users

SP3-Q2: Do you agree with the costs and benefits identified for our proposed direction on Operators to ensure there is appropriate representation of the interests of service-users? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

We fully support the outlined benefits and would highlight the advantages of increased transparency. Active engagement from all service users would be very welcome for the Payment and Card Schemes.

We agree that the incremental costs are modest, especially in the event that the existing independent directors' roles are enhanced to support increased transparency and

engagement. Whilst we would expect to see some modest incremental costs which may be higher for payment schemes that do not currently operate with independent directors, the costs are not material and are outweighed by the stated benefits.

SP3-Q3: Do you agree with our proposed direction on Interbank Operators requiring the Interbank Operator to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? If you disagree with our proposed approach, please give your reasons.

We support the proposed direction.

SP3-Q4: Do you agree with our proposed approach not to issue directions at this time in relation to the other types of conflicts of interest identified by stakeholders? If you disagree with our proposed approach, please give your reasons.

We support the proposed approach.

SP3-Q5: Do you agree with the costs and benefits identified for our proposed direction requiring the Interbank Operators to take all reasonable steps to ensure that any individual acting as a director of that Operator must not simultaneously act as a director of an actual or potential Central Infrastructure Provider to that payment system? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

We agree with the benefits and costs outlined in PSR CP14/1.3 Paragraphs 3.154 to 3.162 inclusive

SP3-Q6: Do you agree with our proposed direction to require all Operators to publish board minutes in a timely manner? In particular, do you agree with our proposal for the published minutes to include a record of votes and reasons for decisions made? If you disagree with our proposed approach, please give your reasons.

We support the proposed direction.

However, as highlighted in PSR CP14/1.3 paragraph 3.178, the designated schemes will need to be careful in the way that sensitive security matters are recorded in the minutes. The security and integrity of the payment system needs to be carefully safeguarded. By way of illustration, it would be inappropriate to publish details of the cyber risks that the industry faces and is working to mitigate.

We would propose that a full set of minutes is provided confidentially by each Payment Scheme to the PSR. This principle is already in place with the Bank of England Supervisory team and would provide the information behind the need for any redacted content.

SP3-Q7: Do you agree with the costs and benefits identified for our proposed direction to require all Operators to publish board minutes in a timely manner? Can you provide any data that might further inform our analysis of the likely impact of our proposed direction?

We agree with the benefits and costs outlined in PSR CP14/1.3 Paragraphs 3.188 to 3.198

inclusive.

SP3-Q8: Do you agree with our proposed approach not to issue a direction at this time in relation to Payments Council reserved matters? If you disagree with our proposed approach, please give your reasons.

We support the proposed approach.

Questions in relation to our proposed approach to access to payment systems (see Part F of our *Consultation Paper and Supporting Paper 4: Access to payment systems* for more details)

SP4-Q1: Do you agree with our preferred option that an Access Rule, aligned with Principle 18 of the CPSS-IOSCO Principles, should be applied to those pan-GB Operators not subject to Regulation 97 of the PSRs 2009 (i.e. Bacs, C&CC, CHAPS and FPS)? If you disagree with our proposed approach, please give your reasons.

Compliance with CPSS-IOSCO Principle 18 is already enforced by the Bank of England's Payment System Oversight team for BACS, FPS and CHAPS. Formalising this in a PSR Access Rule is acceptable, provided there is alignment between the PSR and Bank of England Principle 18 requirements, alongside any new or amended principles the Bank of England enforces.

SP4-Q2: Do you agree with our proposal to introduce a Reporting Rule (on compliance with the access obligations applicable to them) on all relevant pan-GB Operators (i.e. Bacs, C&CC, CHAPS, FPS, LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

We support the proposed reporting rule proposal and recommend that the reporting timetable is aligned with the Bank of England CPMI IOSCO self- assessment, to promote efficiency and avoid duplication.

SP4-Q3: Do you agree with our proposal to require public disclosure of Access Requirements for Operators subject to Regulation 97 of the PSRs 2009 (i.e. LINK, MasterCard and Visa)? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach.

SP4-Q4: Do you agree with the costs and benefits identified for our Access Package (i.e. our Access Rule and Reporting Rule)? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

We agree with the benefits and costs outlined in PSR CP14/1.4. Paragraphs 4.184 to 4.190 inclusive.

SP4-Q5: Do you agree with our proposed direction requiring Sponsor Banks to publish certain information? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed direction. Information relating to the solutions offered to such parties, alongside their contact information can be freely provided. However, HSBC, as we note with other Sponsor Banks, applies not only technical eligibility criteria when determining whether to support individual Indirect Participants as customers, but will also require such Indirect Participants to meet financial crime and compliance risk standards and risk appetite.

SP4-Q6: Do you agree with our proposed approach in relation to the development (by industry) of an Information Hub? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

We support the proposed approach.

SP4-Q7: Do you agree with our proposed approach in relation to the development (by industry) of a Sponsor Bank Code of Conduct, to be approved by the PSR? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

We support the proposed approach for a Sponsor Bank Code of Conduct and will engage with others in the industry to develop the same. However, since many end-users of payments are supported by Indirect Participants and it is necessary, for the integrity of the payment systems and ensure a consistent and high quality customer experience to all users, then certain aspects of a Code of Conduct, relating to scheme rules and operational standards, should also be extended to include Indirect PSPs.

SP4-Q8: Do you agree with our proposed approach in relation to the development (by industry) of Technical Access solutions? Or do you consider that we should take a more prescriptive approach at this time? If you disagree with our proposed approach, please give your reasons.

We support the proposed approach.

SP4-Q9: Do you agree with the costs and benefits identified for our proposed direction on Indirect Access? Can you provide any data that might further inform our analysis of the likely impact of our directions?

We agree with the cost and benefit statements.

Question in relation to our proposed approach in relation to interchange fees (see Part G of our *Consultation Paper Supporting Paper 5: Interchange fees* for more details)

SP5-Q1: Are there other matters regarding interchange fees that you think we should consider at this stage?

We do not have any specific matters for the PSR's further consideration at this time, but would assume the PSR recognises that all parties involved in the provision and use of payment services should be required to make a fair contribution towards the costs.

Questions in relation to our proposed approach to our regulatory tools (including our high-level Principles, and our enforcement and dispute resolution processes) (see Parts H and I of our *Consultation Paper Supporting Paper 6: Regulatory tools* for more details)

SP6-Q1: Do you agree with our three proposed high-level PSR Principles on Relations with regulators, Compliance and Financial Prudence? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach, but would like to make the following comments:

Principle1 – Given the wide and diverse nature of stakeholders there would be benefits in the PSR providing additional guidance around expectations and confirm as to whether a 'reasonableness' approach will be adopted.

Principle 2 – Further consideration should be given to principle 2, in conjunction with the additional proposed Principles of Integrity and Conflicts of Interest (6.30). As outlined in response to **SP6-Q4**.

SP6-Q2: Do you agree with our proposed approach that our PSR Principles on Relations with regulators and on Compliance should apply to all participants? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider they should apply to and why.

We support the proposed principles.

SP6-Q3: Do you agree with our proposed approach that our PSR Principle on Financial prudence should apply to Operators and Central Infrastructure Providers? If you disagree with our proposed approach, please give your reasons for disagreeing, and explain which categories of participants you consider it should apply to and why.

We support the proposed approach.

SP6-Q4: Do you think that we should also adopt some or all of the additional proposed Principles relating to Integrity, Skill care & diligence, Management & control, Governance, Service-users' interests, and/or Conflicts of interest? If you think we should adopt some or all of the additional proposed Principles, do you agree with the proposed participants to which each Principle would apply? Please give reasons for your response. If you disagree with the proposal to adopt some or all of the additional Principles, please give reasons for your response.

Integrity: The outlined proposal for principle 2, appears to capture integrity. As such, further consideration should be given as to whether a standalone principle is required. If integrity is adopted as a principle, the proposal excludes capturing indirect PSPs, whereas principle 1 and 2 apply to all participants (6.12). This principle should be inclusive of all participants.

Skill, care and diligence: We support adopting this as a principle. The proposed principle excludes capturing indirect PSPs, whereas principle 1 and 2 apply to all participants (6.12). This principle should be inclusive of all participants.

Management and Control: We support adopting this principle.

Governance: We would suggest that this is not adopted as a standalone principle, but would recommend expanding the Management and Control principle to capture Governance.

Service users: We support adopting this principle.

Conflicts of interest: The outlined proposal for principle 2 appears to capture conflicts of interest. As such, further consideration should be given as to whether a standalone principle is required.

Conduct: We view the PSR as an economic and not a conduct regulator, therefore we believe it would be inappropriate for the PSR to adopt principles applying to conduct.

SP6-Q5: Do you agree with the anticipated costs and benefits identified for our three proposed high-level Principles? Can you provide any data that might further inform our analysis of the likely impact of our proposed directions?

We agree with the anticipated costs.

SP6-Q6: Do you agree with our proposed approach for our Objectives Guidance? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach for the PSR's Objectives Guidance. PSR CP14/1.6 Annex 1 Paragraph 3.1 sets out the broad definition of service users and provides examples of service users.

Whilst we note that the list is illustrative, it is important to capture the following as service users with individual needs:

- MMEs – as distinct from SMEs and Large Corporates
- Financial Institutions as customers themselves
- Consumers – it is important to include vulnerable customers to ensure that their needs are fully captured and recognised.

We support the competition objective especially noting that in PSR CP14/1.6 Annex 1 Paragraph 4.3, competition must be in the interests of service-users.

We also support the innovation objective. As well as collaborative innovation, it is essential that individual PSPs retain the freedom to continue to innovate in their own right and to develop new payment propositions for their end Service Users.

SP6-Q7: Do you agree with our proposed approach for our Administrative Priority Framework, or are there any additional points that you think we ought to

cover? If you disagree with our proposed approach, please give your reasons.

The proposed approach appears to be aligned to that previously observed by the CMA with the adoption of a similar proportionate and targeted approach to key risks. It is how the available tools are utilised in practice that will determine how the Framework impacts the industry. As is currently the case under PRA/FCA control HSBC would support a similar collaborative approach with the proportionate use of the various supervisory options available. HSBC will support the PSR as it finalises its approach and will provide views on specific approaches when required.

SP6-Q8: Do you agree with our proposed approach for our Powers & Procedures Guide? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach. We note that in PSR CP14/1.6 Annex 3 Paragraph 4.2, operators will normally be allowed 14 days to respond, whereas the PSR has 90 days to respond. Given that the resources in most operators are not dissimilar to the PSR's own resources, we would propose more equal response times for both the PSR and operators.

PSR CP14/1.6 Annex 3 Paragraph 5.1 outlines a number of ways in which you will consult and communicate proposed requirements. To ensure a rapid response, we would recommend that in such cases, the PSR should always communicate directly with the appropriate operators.

SP6-Q9: Do you agree with our proposed approach for our dispute resolution and applications procedures? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach.

SP6-Q10: Do you agree with our proposed approach for our Super-Complaints Guidance? If you disagree with our proposed approach, please give your reasons.

Guidance 6.85 states that the super complaint procedure is modelled on the same mechanisms as the CMA. Therefore we would support the final guidance mirroring the existing process for the handling of such complaints. We would ask the industry to consult the industry on any proposed changes to this model.

SP6-Q11: Do you agree with our proposed approach to setting penalties? If you disagree with our proposed approach, please give your reasons.

Please see our response to **SP6-Q12**.

SP6-Q12: Do you think that we should also take into account metrics other than revenues when setting penalties, in particular when considering participants organised as not-for-profit entities (e.g. should we take into account the value of funds transferred through the relevant system and relating to that participant in such a case)?

The observed approach to penalty calculation that has been applied by the FCA (as outlined

in DEPP) includes a five step approach (DEPP 6.5.3), which allows for calculations based on the specific circumstances of the breach. The variety of circumstances and causes that could lead to penalties would suggest that a number of metrics would need to be applied so both value and revenue could be used to determine that an institution has not benefited from a breach. Alignment with the existing approach would remove the need to select a particular metric or apply the limits raised in **SP6-Q13**.

SP6-Q13: What should be the upper limit (if any) on penalties (e.g. 10% of annual revenues derived or billings made by the participant from the business activity in the United Kingdom to which the compliance failure relates), and should this upper limit differ according to the category of participant?

Please see our response to **SP6-Q12**. As explained, we would look to follow the FCA model as outlined in DEPP, which allows for calculations based on the specific circumstances of the breach. Given the scope of the PSR we would suggest that this applies only to UK volumes and revenues of a firm. For example, if a failure relates to CHAPS, then any penalty should relate only to the revenues billed specifically in respect of CHAPS payments.

SP6-Q14: Do you agree with our proposed approach with respect to the enforcement and enforceability of penalties? If you disagree with our proposed approach, please give your reasons.

We agree with the proposed approach.