

Policy statement

Specific Direction 9 (Crisis communications: Visa)

Response to consultation and
decision on giving the direction

May 2019

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1 Executive summary

On 1 June 2018, Visa Europe (Visa) suffered a partial failure of its ability to process authorisations, lasting for around six hours. During the incident, 2.4 million attempted UK transactions failed. Merchants lost potential sales and consumers lost purchasing opportunities. We considered giving the operator of Visa a specific direction (Specific Direction 9, SD9). The objective of the specific direction is to ensure that Visa's participants, stakeholders and service users receive enough information in the event of any future major incident.

We consulted on SD9 between 5 February and 1 March 2019 and received four responses: two were from PSPs, and two were from payment system operators.

Respondents supported our proposal to give a specific direction, stating it would be effective to do so and the costs would be low in comparison to the benefits. However, not all respondents agreed, and some issues were raised about whether giving a specific direction was the right thing to do.

We considered the points in the responses, in addition to our own assessment, and concluded that there is no reason for us to significantly change our approach. We have now given SD9 to Visa.

What was the issue?

- 1.1** On 1 June 2018, Visa Europe (Visa) suffered a partial failure of its ability to process authorisations, lasting for around six hours. During the incident, 2.4 million UK transactions attempted failed. Merchants lost potential sales and consumers lost purchasing opportunities.
- 1.2** Shortly after the incident, Visa commissioned Ernst & Young LLP (EY) to conduct an independent review of the incident. The review confirmed that Visa had a robust and resilient authorisations system intended to prevent incidents impacting authorisations. However, the report highlighted issues including Visa's communications during the outage.

Why we considered a direction

- 1.3** EY's report made a number of recommendations, and we were pleased to learn that Visa had accepted all of these and had committed to implementing them in a timely manner.

- 1.4** However, we considered that the EY recommendations were at a high level and alone may not be sufficiently detailed enough to ensure that Visa makes the necessary improvements, and a method for assessing whether Visa's crisis communication plans continue to evolve to meet changing circumstances. While Visa had committed to undertake remediation activities, we proposed giving the operator of Visa a specific direction, putting a regulatory framework around those activities to enhance the effectiveness of the remediation work.
- 1.5** The main objective of the direction is to ensure that Visa's participants, stakeholders and service users (merchants and consumers, for example) receive enough information in the event of a major incident by requiring Visa to:
- a. Address and remediate the findings of the EY report in terms of effective crisis communications with its participants and stakeholders.
 - b. Make sure that going forwards it has an effective, tested crisis communications plan in place that will be used in the event of any future incidents.
- 1.6** The objective is to ensure that all those likely to be affected by a Visa incident are informed, including Visa's participants, stakeholders, and service users. However, our direction focuses on Visa informing its participants. This allows Visa's participants to pass information downstream to card holders and merchants using their own crisis management plans. This is in addition to Visa making use of other communication channels as appropriate – i.e. its website and social media. Our direction also requires Visa to inform stakeholders such as other Payment System Operators (PSOs) so that their own contingency plans can be initiated if required.

Consultation responses and relevant information

- 1.7** We consulted on the draft text of Specific Direction 9 (SD9) between February and March 2019. We asked whether our direction would be effective, what costs and burdens our direction would impose, and whether the direction should expire after five years.
- 1.8** Respondents were broadly supportive of SD9 and stated that they believed our direction would be effective and would not be costly compared to the benefits it would bring. Not all respondents agreed: one respondent felt that our direction would not be required because Visa had already publicly agreed to remediate all the findings in the EY post-incident review.
- 1.9** Most respondents agreed that SD9 should remain in place for five years. One respondent preferred a three-year period.
- 1.10** We noted that the Bank of England announced it was giving Visa a direction to remediate all the findings in the EY post-incident review.¹ We noted that our powers and objectives differ to those of the Bank, Prudential Regulatory Authority (PRA) and Financial Conduct Authority (FCA), and that our direction is complementary to the Bank's direction.

¹ See: <https://www.ft.com/content/d43b200a-4194-11e9-b896-fe36ec32aece>

- 1.11** We also considered that because Visa has already agreed to remediate the findings in the EY report, the additional costs of the requirements of SD9 are expected to be low.
- 1.12** We also assessed the proportionality of giving a direction and believe it is proportionate to do so.

What we have decided

- 1.13** We have decided to give the specific direction to Visa, the direction to be known as Specific Direction 9 (Crisis communications: Visa).

2 Introduction

The 1 June 2018 incident represented a serious disruption to Visa's services. During the incident, 2.4 million UK attempted transactions failed. Merchants lost potential sales and consumers lost purchasing opportunities.

Shortly after the 1 June incident, Visa commissioned Ernst & Young LLP (EY) to conduct an independent review of the incident. The resulting report's findings and observations provide evidence that the partial failure of Visa's authorisation system caused further disruption than was necessary because Visa's communications practices were deficient.

We consulted on a specific direction, Specific Direction 9, with the aim of ensuring that Visa has a robust crisis communications plan that takes into account the needs of its participants and a wide range of stakeholders, and that this plan remains appropriate in light of future changes and experience, and is used in practice.

Background

- 2.1** Visa is the most widely used card payment system in the UK. In 2017 around four out of five card transactions in the UK were debit card transactions: there were approximately 13.2 billion debit card transactions in the UK and 3.1 billion credit card transactions. In 2017, 97% of debit cards issued in the UK were issued under the Visa brand.
- 2.2** Visa licenses payment service providers (PSPs) to issue debit, credit and other payment cards to consumers using the Visa brand, and licenses acquirers to process payments on behalf of merchants.
- 2.3** Visa branded cards are also often used to withdraw cash from ATMs, however only a small number of UK withdrawals will go across the Visa system. Typically, a cash withdrawal will only go across the Visa system if Visa branded cards are used by UK visitors overseas or by overseas visitors to the UK.

The 1 June 2018 incident

- 2.4** The 1 June incident was a serious disruption to Visa's services. During the incident, 2.4 million UK transactions attempted failed. Merchants lost potential sales and consumers lost purchasing opportunities. Some merchants suspended all card payments for periods during the incident, including those payments using other card payment systems.
- 2.5** It may not have been clear to consumers that Visa debit cards continued to work at LINK ATMs during the incident, adding to the general lack of clarity to consumers about how best to respond to the incident. The disruption to Visa's services could have gone on to cause disruption to other payment systems if the incident had continued for longer.

Post incident review

- 2.6** Shortly after the 1 June incident, Visa commissioned Ernst & Young LLP (EY) to conduct an independent review of the incident. The resulting report's findings and observations (as provided to the Treasury Select Committee (TSC) in Visa's letter dated 14 November) confirm that Visa had a robust and resilient authorisations system, but also provides evidence that the partial failure of Visa's authorisation system caused further disruption than was necessary because Visa's communications practices were deficient.
- 2.7** In particular, in respect of communications the report found that:
- a. external communications were not timely or regular
 - b. external communications were not actionable
 - c. remediation of communications issues identified in a previous incident were still to be completed
 - d. there were delays in communication approvals
 - e. internal communications were not timely, actionable, or delivered through effective channels
 - f. methods to communicate with clients were not effective or efficient

Draft direction and consultation

- 2.8** EY's report made a number of recommendations to address the findings. We were pleased to learn that Visa has accepted all the recommendations and has committed to implementing them in a timely manner.
- 2.9** However, we considered that the EY recommendations were only at a high level and alone may not be sufficiently detailed to ensure that Visa makes the necessary improvements to communicate effectively during an incident. Additionally, there is a need for assurance that the appropriate steps will be taken to achieve those necessary improvements, and a method to assess whether Visa's crisis communication plans continue to evolve to meet changing circumstances. While Visa has committed to undertake remediation activities, we proposed giving the operator of Visa a specific direction, putting a regulatory framework around those activities to enhance the effectiveness of the remediation work.
- 2.10** We consulted on giving a specific direction, Specific Direction 9 (SD9). The main objective of the direction is to ensure that Visa's participants, stakeholders and service users receive enough information in the event of a major incident by requiring Visa to:
- a. Address and remediate the findings of the EY report in terms of effective crisis communications with its participants and stakeholders.
 - b. Make sure that going forwards it has an effective, tested crisis communications plan in place that will be used in the event of any future incidents.

- 2.11** We proposed that Visa should regularly review, test and revise the plan with its participants so it remains effective. We also proposed to require the plan to be used in the event of any future incidents.
- 2.12** We consulted on SD9 between February and March 2019, specifically inviting answers to these questions:
- a. Will our direction as drafted be effective in meeting our aim? In particular, does our direction take sufficiently into account the interests of stakeholders? If not, what changes should we make?
 - b. What costs and burdens will our proposed direction impose?
 - c. Should the direction expire after five years (see 8.2 of the draft direction in Annex 1), or alternatively be subject to a review after that period?
- 2.13** We had four responses to our consultation, two from PSPs and two from PSOs. In Chapter 3 we summarise the responses to our questions; in Chapter 4 we discuss proportionality of us giving a direction; in Chapter 5 we explain our equality impact assessment; and in Chapter 6 we set out our conclusions.

3 Consultation responses

We received four responses. Two were from PSPs and two came from PSOs. Three of the respondents answered the questions we asked, the fourth respondent gave more general views.

There was support for our proposals: respondents felt they would be effective, the costs would be low in comparison to the benefits, and that the five-year period the direction would be in place was the appropriate length of time. However, not all respondents agreed, and some issues were raised about whether giving a direction was the right thing to do.

We considered these points and believe that these do not give us reason to significantly change our approach.

Question 1

- 3.1** We asked whether our direction as drafted would be effective in meeting our aim. In particular, we asked whether our direction takes the interests of stakeholders sufficiently into account and, if not, what changes we should make.
- 3.2** Three of our respondents answered this question directly, and two of these agreed that SD9 would be effective in meeting our aim. One respondent noted that changes delivered by Visa to comply with the proposed direction will 'undoubtedly help the industry manage such incidents better in the future'. They also suggested that the scope of SD9 be widened to include post-incident remediation, specifically of the knock-on impacts of an incident to firms and customers that also require management and remediation. Another respondent noted that in SD9 we would require Visa to establish the categories of key stakeholders to be notified in the event of a major incident, arguing that PSOs should be regarded as Visa's key stakeholders. There was a suggestion that all UK PSOs should work together to build a joint crisis and communications plan.
- 3.3** One of the respondents did not agree that SD9 would be effective, explaining that while participants and stakeholders need the correct information in the event of a crisis, Visa would be unable to change the industry on its own.

Our view

- 3.4** We do not agree with the view that giving a direction only to Visa, as operator of the Visa Europe payments system, cannot bring about sufficient change in the industry to make giving a direction worthwhile. Visa's role as operator includes the responsibility to set procedures and standards that apply to its participants – its position in the centre of the Visa system means that it is best-placed to lead change.

- 3.5** We consider that it is appropriate, given the evidence provided by the post-incident report and in one of the consultation responses, to require that Visa consider other PSOs when establishing a list of stakeholders to receive crisis communications. We do not propose to direct for industry coordination beyond this.
- 3.6** One respondent suggested that we explicitly include post-incident remediation in crisis communication requirements. We note that in our proposed direction we had already included a requirement for Visa to create a schedule for communication ‘during an incident and for post-incident follow-up and debrief actions’ (SD9 3.1(1)(g)). We had also proposed a further requirement (SD9 3.1(4)) on Visa to satisfy the PSR in relation to:
- a. The criteria for a major incident triggering Visa’s crisis communications.
 - b. The categories of relevant stakeholders to be notified during a major incident.
- 3.7** Our intention when drafting our proposals was that Visa should include post-incident actions in its crisis communications plan, and that it should also take participants’ feedback into account when revising its plans.
- 3.8** In conclusion, we believe SD9 as drafted will be effective in meeting its objective to ensure that Visa's participants, stakeholders and service users receive enough information in the event of a major incident. It will also ensure that the impacts of an incident on firms and consumers are taken into consideration in Visa’s communications plans.

Question 2

- 3.9** We asked what costs and burdens our proposed direction would impose.
- 3.10** Three of our respondents answered this question directly. One respondent suggested that costs and burdens on stakeholders other than Visa will be small when balanced against the benefits that it expects will be delivered. The same respondent noted that it expects Visa to absorb any costs incurred by remediation work rather than passing these costs on to its participants. Another respondent did not expect any costs incurred in the implementation of our direction to become an excessive burden to them.
- 3.11** A further respondent argued that the costs and burdens that our proposals would impose would be significant but did not give any further detail.

Our view

- 3.12** There was little evidence presented in any of the responses. One respondent noted that the impact on participants would be low especially when balanced against the benefits.
- 3.13** One respondent noted that there will be significant costs and burdens but did not quantify these. Visa has mentioned that it is willing to undertake the activities that we require outside of a direction, and has also committed to remediating the activities surrounding the incident publicly. It is therefore difficult to assess how much the burdens and costs would increase due to the giving of a direction.

- 3.14** In the absence of detailed costs, we have made a qualitative assessment. We acknowledge that Visa is likely to incur some costs and burdens implementing the changes to procedures and to the reporting requirements imposed by SD9. We consider that many commercial firms would be interested in improving their communication plans with their key stakeholders. Visa has told us that it is willing to undertake the steps proposed in SD9 voluntarily.
- 3.15** In conclusion, although there will be some costs and burdens associated with reporting obligations to the PSR we do not believe these will be material.

Question 3

- 3.16** We asked whether the direction should expire after five years (see SD9 8.2 in Annex 1), or alternatively be subject to a review after that period.
- 3.17** Three respondents responded to our question directly. One respondent noted that incidents such as the 1 June event are extremely rare, and there may be no opportunity within our proposed five-year span to assess whether Visa use the agreed communication plans following a major incident. For this reason, they suggested that the PSR reviews the applicability of the direction after five years. A further respondent agreed with the five-year horizon. Another respondent suggested that three years would be a more appropriate duration for our direction, and that a review period would be consistent with other PSR specific directions. Three of the respondents also agreed that a review after an elapsed period would be preferable to an automatic expiry date.

Our view

- 3.18** Three of the respondents to our consultation suggested that a review period would be more appropriate than the automatic expiry of our direction. One respondent suggested that the duration before the review should be three years rather than five years.
- 3.19** We consider that three years may not provide enough evidence to show that the revision and review cycles required by our proposed direction have become Visa's standard approach to the preparation of crisis communications. If, for example, major revision is needed to the communications plan following the first rehearsal, the second rehearsal will test those revisions, and the third rehearsal will be the only chance before expiry of the direction to assess whether the communications plan now operates on a business as usual basis.
- 3.20** We noted that respondents prefer review of the direction rather than its automatic expiry. However, we did not wish to risk our requirements being extended inadvertently beyond their useful life.
- 3.21** We have therefore retained the automatic expiry of SD9, but have made it clearer in our drafting that we reserve the right to review the effectiveness of SD9 at any point during its operation.

- 3.22** In any such review, we would take into account all matters that appear relevant to us at the time. We anticipate that this would include, but not be limited to:
- a. Visa's compliance with the immediate remediation requirements of part 3 of SD9 (Crisis communications: Visa).
 - b. Any findings on the annual reports that Visa submits to us.
 - c. Level of compliance with the requirements of part 5 of SD9 in the case of any major incident that occurs during its operation.

3.23 In conclusion, automatic expiry of SD9 presents a lower risk that our requirements might be inadvertently extended beyond their useful life. We may, however, review SD9 at any point during its operation. Our review may conclude that it is appropriate to extend the duration of SD9 beyond the five-year period.

Other considerations

3.24 One respondent provided a wider range of considerations in their response. This included comments on the PSR's role in a suggested broader programme of work on operational resilience. It noted that the Bank of England is best placed to have regulatory oversight of this programme. Indeed, the Bank of England, PRA and FCA have published a discussion paper on building the UK's financial sector's operational resilience.²

3.25 The respondent stated that, as resilience is key to the Bank's mandate, once Visa has fulfilled the EY report's recommendations, including those relating to crisis communications, overall ownership of regulatory oversight should sit with the Bank.

3.26 Another respondent found it disappointing that we consider it necessary to give a direction, as Visa has already publicly agreed to voluntarily adopt recommendations from regulators and the Treasury Select Committee (TSC). The same respondent noted that they are supportive of our statement that the 1 June incident highlighted the importance of effective communications in all payment systems, particularly in crisis situations. The respondent argued that giving a direction weakens the incentive for payment industry participants to take voluntary action, and that it would set an unhelpful precedent.

Our view

3.27 We do not agree that we should only give directions where PSOs state that they are unwilling to undertake voluntary change. We are encouraged that Visa has accepted all the recommendations of the EY report and has committed to implementing them in good time. We have considered whether a voluntary commitment would meet the objective of the direction in this case and believe that it is important that we put a regulatory framework around our requirements.

² See: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/building-the-uk-financial-sectors-operational-resilience-discussion-paper>

- 3.28** We have considered whether our actions are likely to remove an incentive on PSOs to act voluntarily to improve their services or processes. We would be concerned if that were so, but consider that it is unlikely that PSOs will restrict future initiatives (including voluntary commitments to the PSR) because of our making this direction.
- 3.29** We do not agree that we are imposing a standard on Visa that is at odds with regulatory requirements elsewhere in the payments industry. We are required to assess whether the use of our powers is proportionate. Visa has the highest transaction volume of any electronic payment system in the UK. Given that we have seen evidence that Visa's crisis communication procedures are deficient we consider that it is appropriate to give Visa SD9 to tackle this issue as our priority.
- 3.30** Some respondents suggested actions across the wider payments industry to coordinate crisis response procedures across more PSOs and their participants. These respondents would not have known that the Bank had given direction to Visa at the time of writing their responses. It is not obvious that knowledge of the Bank's direction would have made any difference to their responses.
- 3.31** We agree that such work would likely benefit the UK payments ecosystem but note that the Bank, PRA and FCA have already released a joint paper recommending an approach to operational resilience in the UK's financial sector. We consider that the Bank would likely lead in any oversight of the operational resilience or financial stability of systemically important financial infrastructure in the UK. The PSR's understanding of its role, responsibilities and approach to resilience is informed by discussions with the FCA, PRA and Bank.
- 3.32** We intend our direction to address the interests of Visa's service users in a way that the remit of other authorities cannot address. The FCA's remit does not cover payment system operators. The Bank's supervisory framework does cover payment system operators, but it does not explicitly cover the interests of service users. One of the aims of our proposal is to bring benefits to downstream service users in the Visa system: merchants and consumers.
- 3.33** Having considered the responses we remain of the view that it is appropriate for the PSR to give a direction to Visa limited to crisis communications.

Our conclusions

3.34 Based on the responses we received, we believe there is support for SD9 as drafted.

3.35 After review of the consultation responses we conclude that:

- It is appropriate for us to give a direction to Visa, limited to crisis communications.
- SD9 as drafted will be effective in meeting the objective of our direction to ensure that Visa's participants, stakeholders and service users receive enough information in the event of a major incident by requiring Visa to:
 - a. Address and remediate the findings of the EY report in terms of effective crisis communications with its participants and stakeholders.
 - b. Make sure that going forwards it has an effective, tested crisis communications plan in place that will be used in the event of any future incidents.
- Although there will be some costs and burdens associated with reporting obligations to the PSR we do not believe these will be material.
- Automatic expiry of our specific direction lowers the risk that our requirements are inadvertently extended beyond their useful life. We may, however, review SD9 at any point during its operation. Our review may conclude that it is appropriate to extend the duration of SD9 beyond the initial five-year period.

4 Proportionality

We assess the proportionality of giving a specific direction to Visa (SD9).

Our assessment of proportionality

4.1 We considered proportionality in relation to the decision to give Specific Direction 9.

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

4.2 The main objective of the direction is to ensure that Visa's participants, stakeholders and service users receive enough information in the event of a major incident by requiring Visa to:

- a. Address and remediate the findings of the EY report in terms of effective crisis communications with its participants and stakeholders.
- b. Make sure that going forwards it has an effective, tested crisis communications plan in place that will be used in the event of any future incidents.

4.3 SD9 will apply only to Visa, and not to any other PSO. Visa has the highest transaction volume of any electronic payment system in the UK, which means that any deficiencies in its communications during a crisis will have a greater impact on service users. The June 2018 incident had significant impacts on merchants and consumers, and the disruption to Visa's services could have gone on to cause disruption to other payment systems had it continued.

4.4 Additionally, Visa has previously failed to make improvements that were identified after a 2017 incident. We have evidence of deficiencies in relation to Visa's crisis communications.

4.5 The objective of SD9 is to improve Visa's downstream communication with its service users during a major incident. This is to be achieved through improvements to Visa's crisis communications with its participants and stakeholders. Meeting this objective will mean that any future incidents will not be made more disruptive by deficiencies in its crisis communications.

Is the specific direction rationally connected to that objective?

- 4.6** SD9 will ensure that Visa remedies the deficiencies in its crisis communications and provides the PSR with evidence of this. It will also impose testing, review and reporting obligations to ensure effective communications going forwards.
- 4.7** Although SD9 does not require Visa to communicate directly with its service users, we think that improving crisis communications between Visa and its participants is likely to lead to improvements in the flow of information downstream to service users.

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

- 4.8** We considered whether it was necessary to give a direction to achieve the objective in light of the following:
- a. As set out in paragraph 1.10, the Bank has given a direction covering the findings and recommendations of the EY report, including those relating to crisis communications.
 - b. Visa has informed the PSR that a plan of work is already under way which aims to remedy the deficiencies in its crisis communications. Visa has also stated that it would voluntarily undertake any reasonable regulatory requirements.
- 4.9** The regulatory focus of the PSR differs from the Bank: we have a statutory objective to ensure that payment systems are operated and developed in a way that takes account of, and promotes, the interests of service users. Our priority in taking this action is to ensure effective crisis communication with service users. We have coordinated with the Bank to ensure that our specific direction does not duplicate its work. We designed our direction to be complementary to that of the Bank.
- 4.10** We acknowledge that Visa has undertaken to remedy the deficiencies in its crisis communications, following the findings and recommendations of the EY report. However, we are concerned that Visa had not addressed failings in its crisis communications following an earlier incident.
- 4.11** We take the view that putting a regulatory framework around Visa's activities to improve its crisis communications will ensure and enhance the effectiveness of that work.
- 4.12** Additionally, there are areas beyond the EY report that we wish to see addressed to achieve the objective of SD9, such as testing of Visa's crisis communications plan.
- 4.13** We have framed our direction around that objective. We considered whether less intrusive measures could be used, and made a number of decisions to ensure that the direction does not go beyond what is necessary to achieve the objective.

4.14 We considered the appropriate duration for our direction and took the view that a five-year period would be appropriate. This period allows enough time for the PSR to be satisfied that Visa has embedded and committed to the changes required, which a shorter period (such as three years) might not allow. The direction will expire after five years, which ensures that the requirements of the direction will not be extended beyond the period for which they are necessary, although we may review it at any time during its operation. Our review may conclude that it is appropriate to extend the duration of SD9 beyond the five-year period.

Is the severity of the effects of the direction on Visa outweighed by the importance of the objective of SD9 to the extent that the measure will contribute to its achievement?

4.15 As set out above, we understand that Visa is prepared to voluntarily undertake to improve its crisis communications and cooperate with any reasonable regulatory requirement. Our direction does not therefore require Visa to do anything that it was not in any case prepared to do.

4.16 We accept that Visa is likely to incur costs and burdens in implementing SD9, although we have not been provided with any evidence or detailed cost information about this. In the absence of such information, it is difficult to analyse how placing a regulatory framework around Visa's remediation activities will affect costs. However, we think it unlikely that any additional costs will be significant.

4.17 It is our view that any additional costs or burdens above and beyond the work that Visa is already undertaking or is willing to undertake voluntarily are outweighed by the importance of the objective of SD9. We take the view that the direction will contribute substantially to achieving that objective.

Conclusion in relation to proportionality

4.18 In conclusion, taking into account all relevant considerations, the evidence available and the responses to the consultation, it is our view that it is proportionate to give Visa SD9.

5 Equality impact assessment

In line with our public-sector equality duty under the Equality Act 2010, we must give due regard to the likely impacts of giving this direction. In this chapter, we assess the impacts we believe the direction will have including on people with relevant protected characteristics.

- 5.1** In deciding whether to give the direction and what should be in it, we considered the matters set out in section 149 of the Equality Act 2010 (the public sector equality duty), particularly the impact of our proposed direction on people with protected characteristics.³
- 5.2** The objective of the specific direction is to ensure that Visa's participants, stakeholders and service users receive enough information in the event of a major incident by requiring Visa to:
- a. Address and remediate the findings of the EY report in terms of effective crisis communications with its participants and relevant stakeholders;
 - b. Make sure that going forwards it has an effective, tested crisis communications plan in place that will be used in the event of any future incidents.
- 5.3** The direction will have a direct impact on Visa's participants: acquirers and card issuers. However, the objective of our direction is to ensure that acquirers can provide greater clarity to merchants and card issuers to consumers if there is a major incident. This should allow those merchants and consumers to understand what the issue is and whether alternative payment methods are required to transact. Our assessment is that this will benefit consumers of all types including people with relevant protected characteristics that use Visa branded debit, credit or pre-paid cards.
- 5.4** We believe that the direction will not have a detrimental impact on any protected group.

Conclusion in relation to our equality impact assessment

- 5.5** No respondents to our consultation suggested that we should not give a direction because of its impact on equality. We are satisfied that our direction will bring benefits ultimately to merchants and consumers, including those with protected characteristics.

³ The relevant protected characteristics under section 149 are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

6 Conclusion

We conclude, weighing up the responses and evidence given to us, that it is appropriate to give the specific direction, SD9, to Visa.

Responses and proportionality

After reviewing the consultation responses, we conclude that:

- 6.1** It is appropriate to give a direction to Visa, limited to crisis communications only. SD9 as drafted will be effective in meeting the objective of our direction to ensure that Visa's participants, stakeholders and service users receive enough information in the event of a major incident by requiring Visa to:
 - a. Address and remediate the findings of the EY report in terms of effective crisis communications with its participants and stakeholders.
 - b. Make sure that going forwards it has an effective, tested crisis communications plan in place that will be used in the event of any future incidents.
- 6.2** There will be some costs and burdens of these obligations, we do not believe they will be material.
- 6.3** Automatic expiry of our specific direction, SD9, lowers the risk that our requirements are inadvertently extended beyond their useful life. We may, however, review SD9 at any point during its operation. Our review may conclude that it is appropriate to extend the duration of SD9 beyond the five-year period.
- 6.4** We believe that the reasons for making the specific direction, as presented in the consultation text CP19/2 that accompanied our draft direction proposal, still stand:
 - a. We consider that the EY report recommendations are at a high level and alone may not be sufficiently detailed to ensure that Visa makes the necessary improvements in communicating effectively during an incident. Additionally, there is a need for assurance that the appropriate steps will be taken to achieve those necessary improvements, and a method for assessing whether Visa's crisis communication plans continue to evolve to meet changing circumstances. While Visa has committed to undertake remediation activities, we will give the operator of Visa a specific direction, putting a regulatory framework around those activities to enhance the effectiveness of the remediation work.
 - b. SD9 will ensure that Visa has in place a robust crisis communications plan that takes into account the needs of its participants and a wide range of its stakeholders, that this plan remains appropriate in light of future changes and experience, and is used in practice.
 - c. We consider that if Visa carries out the requirements of SD9 this will also address an observation in the EY report that Visa could influence improvements in the effectiveness of crisis communications in the payments processing ecosystem.

- 6.5** We consider that SD9 will likely be effective in achieving the objective of improving Visa's crisis communications.
- 6.6** The effects of SD9 on Visa are outweighed by the importance of the objective of our direction, the achievement of which will be substantially contributed to by the direction. It is therefore proportionate to give Visa SD9.

Our decision

- 6.7** We have made the decision to proceed to give our direction, SD9, to Visa (see Annex 1). This came into force on XX May 2019.

Annex 1

Specific Direction 9 requiring Visa Europe to review and adopt appropriate incident communication strategy and response plans

Specific Direction (Crisis communications: Visa)

May 2019

Specific Direction (Crisis communications: Visa)

1 Recitals

Whereas:

- 1.1** Visa Europe is designated by HM Treasury as a regulated payment system for the purposes of part 5 of the Financial Services (Banking Reform) Act 2013.
- 1.2** On 1 June 2018 the operator of Visa Europe (Visa) experienced an incident resulting in a partial failure to its authorisations. Authorisations were affected for around six hours and approximately 2.4 million of 27.6 million UK cardholder transactions attempted were affected. Consumers, merchants, acquirers and issuers were all impacted by the failure.
- 1.3** On 13 June 2018 Visa engaged Ernst and Young LLP (EY) to conduct an independent post incident review of aspects of the incident. The terms of reference for the review were agreed with the Bank of England and the Payment Systems Regulator (PSR). It included a review of the effectiveness of Visa's disaster recovery, its response to the incident and its communications with stakeholders.
- 1.4** On 5 October 2018 EY completed the review and issued its final report to Visa. The report set out a number of findings and observations including:
1. Visa's communications with internal and external stakeholders during the incident were not timely, regular or actionable.
 2. Visa should consider lessons learned from the incident relating to its role in maintaining the resilience of the payment processing 'ecosystem'.
- 1.5** On 14 November 2018 Visa provided the Treasury Select Committee with a summary of the findings and recommendations of the EY report and Visa's response to the report. Visa's response set out a summary of EY's findings in relation to its crisis communications:
- External communications were not timely or regular.
 - External communications were not actionable.
 - Remediation of communications issues identified in a previous incident were still to be completed.
 - Delays in communication approvals.
 - Internal communications were not timely, actionable or delivered through effective channels.
 - Methods used to communicate with clients were not effective or efficient.

- 1.6** Visa's summary of the report includes EY's recommendations that Visa:
- Review and enhance its crisis communication strategy and response plans to support more timely, regular and insightful communication to stakeholders. This should be supported by putting in place the processes and tools to support the execution of crisis communications and to ensure these are tested on a regular basis.
 - Considers its approach to, mechanisms and tools for internal communication during a crisis to improve the sharing of information to external-facing staff.
- 1.7** Visa's summary relating to its role in the payments processing ecosystem includes EY's recommendation that Visa leverage its influential role in the broader payments ecosystem, championing collaboration and encouraging improvements in the operational resilience of this ecosystem.
- 1.8** Visa's response to the EY findings and recommendations, as sent to the Treasury Select Committee (TSC), stated, among other things, that: 'Visa had accepted all of the recommendations in the EY report, in full, and is committed to implementing them in a timely manner.'
- 1.9** In relation to the findings made relating to its communications, Visa's response states that it is:
- Initiating a project in consultation with clients to further coordinate incident communications.
 - Updating its playbooks to include an improved communication approval process, enhanced frequency of communication and up-to-date channels of communication with relevant stakeholders.
 - Assessing the feasibility of rolling out an immediate information sharing mechanism.
- 1.10** In relation to the finding made in relation to its role in the payments ecosystem, Visa's response states that it has raised the issue of conducting a broader ecosystem crisis management exercise, including identification and assessment of operational solutions to improve ecosystem resilience, developed in collaboration with issuer and acquirer clients and other participants.
- 1.11** The 1 June incident caused a serious disruption to Visa's services, impacting not only Visa's direct participants, but consumers, merchants and the operators of other payment systems. The PSR considers that the findings of the EY report in relation to crisis communications provide evidence that the partial failure of Visa's systems caused further disruption than was necessary because Visa's crisis communications practices were deficient.
- 1.12** Visa's acceptance of the findings and recommendations of the EY report in relation to its crisis communications demonstrates its commitment to improving its crisis communications procedures. However, in order to ensure that Visa takes timely and effective measures to mitigate the impact of any future incident on the payments processing ecosystem, the PSR has decided to make a specific direction.

- 1.13** The PSR considers that improving crisis communications practices between Visa and its direct participants and relevant stakeholders within the payments processing ecosystem including other payment system operators will enable incident information to be passed on to service users further downstream, improve the flow of information and protect the interests of service users.

2 Powers exercised and purpose

- 2.1** The PSR makes this specific direction in accordance with section 54(2)(a) of the Act. In accordance with section 54(3)(c) of the Act this specific direction applies to the operator of the Visa Europe scheme ('Visa').
- 2.2** The PSR has had regard in particular to section 62(2)(a) (Duty to consider exercise of powers under the Competition Act 1998).
- 2.3** The purpose of this specific direction is to require Visa to:
1. Remediate underlying deficiencies in its crisis communications including with the wider payments ecosystem, have in place an effective communications plan and provide evidence of the same.
 2. Test its crisis communications process with its direct participants, and consider those participants' views on the effectiveness of the plan and provide evidence of the same.
 3. Ensure that it regularly reviews and maintains its crisis communications plan, annually testing its effectiveness with participants and reporting to the PSR on the outcomes of that testing and the implementation and timetable for any necessary improvements to the plan as a result.
 4. Ensure that its documented crisis communications plan is followed during any future incident as appropriate.

Direction

NOW the PSR gives the following specific direction to the operator of Visa Europe:

3 Requirement to remediate the findings of the EY report in respect of its crisis communications

3.1 By 30 September 2019, or such later date as the PSR may notify in writing, Visa must:

1. Remediate the underlying deficiencies in its crisis communications including with the wider payments ecosystem. This must include:
 - a. Reviewing its crisis communications plans to ensure that its crisis communications, both internal and external, are prompt and meaningful and inform participants and stakeholders of major incidents affecting them in a timely, actionable way, delivered through effective channels.
 - b. Setting out Visa's criteria for which incidents will trigger the use of the crisis communications plan (a 'major incident').
 - c. Reviewing the crisis communications approval process and establishment of an effective crisis communications approval mechanism allowing for timely approvals during an incident. This should include setting out roles and functions of members of staff responsible for crisis communications.
 - d. Establishing principles and protocols for providing information to stakeholders during incidents. This will include defining those categories of stakeholders to be notified during an ongoing incident and maximum timescales for communication to those stakeholders. Visa must take into account other payment system operators in the payments processing ecosystem when identifying relevant stakeholders and when considering the appropriate communication approach to relevant stakeholders.
 - e. Proactively communicating those principles and protocols to the relevant stakeholders.
 - f. Ensuring that channels of communication with relevant stakeholders are kept up to date.
 - g. Creation of a schedule for communication during an incident and for post-incident follow-up and debrief actions.
 - h. Establishing the circumstances under which media comment will be made, considering a wide range of needs including those of consumers, merchants, regulators and participants directly and indirectly affected by a major incident.
 - i. Establishing processes and tools to support regular testing of the crisis communications strategy and response plans.

2. Review its approach to mechanisms and tools for internal communication. This must include:
 - a. Establishing principles and protocols for communication and coordination across regulatory and client facing teams and other functions during an incident.
 - b. Considering its approach to mechanisms and tools for internal communication to improve information sharing with external-facing staff.
3. Provide the PSR with:
 - a. A copy of Visa's crisis communications plan, showing any changes made since January 2019.
 - b. A report and supporting evidence to demonstrate that Visa has completed the requirements at 3.1(1) and 3.1(2) to the PSR's satisfaction.
4. Satisfy the PSR in relation to:
 - a. The criteria for a major incident triggering Visa's crisis communications plan as required at 3.1(1)(b).
 - b. The categories of relevant stakeholders to be notified during a major incident as required at 3.1(1)(d).

4 Requirement to assess its crisis communications plan

4.1 By 30 September 2019, or such later date as the PSR may notify in writing, and at least every twelve months thereafter, Visa must assess its crisis communications plan.

4.2 This assessment must include:

1. Testing the crisis communications plan by simulating an incident with a representative sample of Visa's participants.
2. Eliciting feedback from the participants in the incident simulation.
3. Assessing whether revisions are required to the crisis communications plan, taking into account participant feedback.
4. Making the required revisions to the plan.

4.3 By 30 November each year, or such other date as the PSR may notify in writing, beginning in 2019, Visa must provide the PSR with a report on the assessment of its crisis communications plan. This report must satisfy the PSR that Visa has completed the requirements of 4.1 and 4.2.

The report must include:

1. Evidence of which participants Visa involved in the test of the remediation action and how they were selected.
2. Details of how Visa elicited feedback from participants and a summary of any such feedback.
3. Details of any revisions made as a result of the assessment and/or feedback, details of any outstanding actions and a timescale for completion of such actions.

5 Requirement to use its crisis communications plan in any future major incident

- 5.1** Visa must, in the event of a major incident, follow the procedures set out in its most recent crisis communications plan.
- 5.2** Visa must, in the event of a major incident, notify the PSR as set out in its communications schedule.
- 5.3** Visa must, within one month of the major incident and the use of the crisis communications plan, provide the PSR with its assessment of the effectiveness of the plan and details of the implementation and timetable for any necessary revisions to the plan.
- 5.4** Visa may depart from the procedures in the crisis communications plan only in cases where the circumstances of the major incident justify it. Visa must report such cases to the PSR within one month of the major incident, explaining the circumstances and the reasons why it has not followed the crisis communications plan.

6 Monitoring requirements

- 6.1** Visa must provide any additional information as the PSR may require from time to time for the purposes of monitoring compliance with this specific direction.

7 Application

- 7.1** This specific direction applies to the operator of the Visa Europe scheme.

8 Commencement and duration

- 8.1** This specific direction comes into force on 31 May 2019.
- 8.2** This specific direction shall cease to be in force five years after the date on which it comes into force, unless, prior to that date:
- a. it is varied, revoked or extended by the PSR; and
 - b. the operator of Visa Europe is notified of this change in writing.
- 8.3** The PSR may review this specific direction at any point prior to the date on which it ceases to be in force.

9 Citation

- 9.1** This specific direction may be cited as SD9 (Crisis communications: Visa).

10 Interpretation

- 10.1** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 10.2** The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament except where words and expressions are expressly defined.

- 10.3** References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.
- 10.4** In this specific direction, the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word and the word 'include' and its derivatives shall be construed accordingly.
- 10.5** In this specific direction:
- **Act** means the Financial Services (Banking Reform) Act 2013.
 - **Major** incident is an incident, as defined in Visa's crisis communications plan, which will trigger the activation of that crisis communications plan.
 - **Operator** has the meaning given by section 42(3) of the Act.
 - **Participants** has the meaning given by section 42(2) of the Act.
 - **Payments processing ecosystem** means the different payments systems and their respective users/providers.
 - **Payment system** has the meaning given by section 41 of the Act.
 - **Payment Systems Regulator** or **PSR** means the body corporate established under Part 5 of the Act.
 - **Regulated payment system** means a payment system designated by HM Treasury under section 43 of the Act.
 - **Visa** means the operator of the Visa Europe scheme, the regulated payment system designated by HM Treasury under section 43 of the Act in March 2015.

Made on 28 May 2019

Chris Hemsley

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