

Review of 'day one' directions

Responses to consultation

March 2019

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Names of individuals and information that may indirectly identify individuals have been redacted.

Association of UK Payments Institutions (AUKPI)

Dear Sir

We take the opportunity to respond to the consultation on Special Direction 1, which considers the access which the four major indirect Access providers (Barclays, HSBC, Lloyds, Nat West/RBS) are providing to Authorised and Registered Payment Institutions. We respond to the specific consultation questions below, but make some general points first.

We notice that the preamble to the consultation refers to the previous indirect access review, to which the Association responded in May 2016. We reiterate that the recommendations/comments we made in that submission still remain valid.

As the PSR is no doubt aware, our sector, which contains up to 1000 payment firms, including 400 API's, remains frustrated by the lack of availability of UK bank accounts, and by extension, lack of access to payment schemes. The situation remains so fragile that we believe that many firms are either unable to offer payment services or are only able to offer these services on a severely limited basis. Consumers are losing out on the best prices/rates of exchange as a result. Or may be tempted to use the unregulated sector if there is no viable service available through the regulated sector.

The lack of banking has, inevitably, meant that payment services, particularly remittance services, have been concentrated into a handful (five or so) large principal/agent networks. 83% of payment service premises are offered through agents of the biggest principals. Yet, there is no evidence that these providers are significantly more compliant than smaller providers (as the findings of the recent HMRC thematic review tends to support). Since the lack of AML controls is, apparently (but not certainly, nothing is certain in this area), a reason why banks decline to service SME operators, we would expect the regulator to be scrutinizing the justifications which the banks are obliged to provide to the regulators as a reason not to provide accounts. If it is for reasons of lack of AML controls, we would expect these faults to be explicitly detailed. And for comparisons to be made with that small part of the sector to which banks continue to offer service. Of course, the banks conspicuously refuse to get into any discussion with the firms about the view they have formed on AML controls, either positive or negative.

Likewise, if the banks are stating to the regulators that they can not make a commercial return from banking a particular PI, then the justification needs to be scrutinized. What is galling for the sector is that, universally, the four major providers are failing to have these conversations with payments firms, at any stage.

We also point out that many payment firms are now moving to online models, and have moved away from higher risk principal/agent business models. But there is no recognition of this from the banks, who still take a one sized approach, and fail to distinguish adequately between particular business models. Again, this is something the regulator should be scrutinizing.

In relation to the banks, we provide following observations, which are based on the experience of two firms which have recently sought banking.

Example one - Firm was an SPI, online only, corridor specific to South Asia, paying out through a bank. Firm has recently contacted the four major banks, this is the feedback:

HSBC - Three follow up emails sent following request for criteria and still awaiting reply.

Barclays - Awaiting reply to request for criteria

Ulster/ RBS /NatWest Banks- "We are currently undergoing a review of our risk appetite across this sector. During this period we have paused the on-boarding of any new customers to ensure that we align any future discussions/relationships with our go-forward appetite. As a result, unfortunately we cannot progress your request currently. However, we would be pleased to reengage on this opportunity once the review has concluded over the coming months. "

Lloyds Bank: 'Unfortunately we can't progress the account opening any further. We no longer offer accounts for any money transmission/foreign exchange' (AUKPI does not believe this is correct information).

The firm contacted other banks with the following responses:

TSB- Do not open any business accounts due to technical issues

Co-operative - Awaiting reply

Starling Bank – Status of application is not clear. Bank has opened a business account for firm, but then indicated that are going to close the account when they became aware they are MSB/PI. Belatedly, the bank now seem to recognise that firm is a PI, and is putting in place a process for handing a PI application. However, they are requiring a costly AML audit as part of the application, with no certainty an account will follow.

Clear Bank – Firm has been told process would take about 3 months. Operational costs of running an account very expensive for the firm (may be prohibitive). Not clear whether an account will be forthcoming.

Example two – Firm is an online/cash based PI, with three branches, operating on India corridor

Applied to Santander. Criteria are here: <http://bit.ly/2LtuMyf> (these criteria were promising and well put together, other banks should follow this kind of lead)

What happened?:

- *I applied for opening a "Corporate Variable Tariff account" mentioned as item 1.*
- *After a few days I received a call to know more about my business. In the conversation the caller explained to me that the first three options do permit only own payment (like staff salary, vendors payments etc) and does not allow any payment "on behalf of a customer wanting to remit money".*
- *I asked them can my customer send money to this account? They said no and it can only be funded from capital (not even by way of profits) He stated that only Vostro accounts allows payouts on behalf of customers (third party payouts) which is suitable for PIs.*
- *But the account is only available if you have a SWIFT membership with the ability to send SWIFT messages for payment'.*

Effectively, based on the accounts they are offering, Santander do not service PI's, though they say they do. It is a waste of everyone's time for them to claim that they are open for business, when they are plainly not.

Our major comment is that in neither of the example above did the banks comply with the obligations to deliver transparency which is a requirement of Special Direction 1. Yet the PSR appears to have no powers to penalize the banks for their non compliance.

AUKPI survey

The Association is presently carrying out a survey of members (results to be finalized by 22nd June). From results received so far, only 15 % of firms have accounts with one of the major four IAP providers. Which does not suggest that Special Direction 1 has had any impact in terms of changing the banking appetite of these IAP's.

Other banks mentioned as offering (potentially offering) service include: BFC, Clear Bank, Metro Bank, EU banks, geographically specific banks with branch in UK.

However, the AUKPI would note that whilst Metro bank does have some involvement with PI's, they can only operationally/logistically provide services to around 30 PI firms. So their potential for future engagement should not be over-sold.

As far as we are aware, only BFC of the new challengers have formally stated to the PI sector that they are open for business. But they are not yet live operationally. No other bank has unilaterally and proactively made any clear statement that they are open to the sector, although we understand that Clear Bank may be, and that Danske Bank are making enquiries. Starling Bank seem confused about their appetite for the sector (see above).

Response PSR consultation questions

Question 3. Do you think that more needs to be done to increase awareness of the information sponsor banks are required to publish under SD1? If so, do you think that the PSR should take action, including by possibly revising SD1?

The information on access criteria provided by the 4 major IAP's is entirely inadequate. There is virtually no awareness within the industry of the website which the banks have created. But even if there was awareness, there is no useful information provided on the site which would help PI's to understand what they need to do to obtain banking, and by extension, access to payment systems.

The PSR should revise SD1, to place an obligation on the banks to proactively engage with the PI sector, and with PI's individually, so that the PI can obtain the necessary criteria they can make successful applications for banking. Or to receive objective information which will enable them to understand why they have been refused banking, should this be the case.

At the moment, the IAP's are totally failing to deliver on their obligations to comply with POND principles in handling requests for banking. We note that in section 3.47 of the consultation document that it states that the IAP must provide information to the PI when refusing access to banking. If this is the legal requirement, this not happening. PI's remain

in the dark about all stages of the application process, and receive no information from the bank which would explain why their application for banking has been declined.

At present most PI's are being unfairly excluded from access to banking and indirect access to payment schemes. We think that the PSR is failing in its duty if it does not do all it can to address this unfairness, which means negative outcomes for the PI firms concerned and for the consumers they seek to serve.

Question 4: Do you think that the scope of SD1 should be widened to include additional requirements on sponsor banks (such as those set out in paragraph 3.49)?

AUKPI supports the idea that Sponsor banks should be required to;

- Offer a single point of contact in each bank which has all information on the bank's policy towards PIs,
- Provide meaningful criteria about their policies to PI applicants on request
- Notify indirect access seekers about such things as the status and progress of their application, and when the sponsor bank will make its decision
- Publish more information on elements such as indicative timescales for handling indirect access requests, and who the relevant decision-maker(s) are within the organisation.
- Following a new account application, the bank should, within 14 days, provide a properly documented explanation of why the PI does or does not meet the standards of the bank for account opening purposes (if the response is negative)
- In the event that a bank takes a decision to close an existing PI account, then the justification for the account closure needs to be properly and comprehensively made available to the PI firm concerned, and, before closure the PI firm should have a reasonable time period in which to address these concerns. Excepting in situations where there is a justifiable suspicion by the bank of illegality on the part of the PI, in which case summary bank account closure is required and should be expected by the PI.

Question 5: Do you have any comments on how best we ensure that SD1 addresses all the right IAPs, at the right time? In particular, please comment on whether you think SD1, which currently addresses Barclays, HSBC, Lloyds and RBS, should be amended to address new entrant IAPs or replaced with a General Direction applying to a defined class of IAPs.

We are agnostic as to the relative merits of revising SD1 or creating a new GD. We think it is important that the existing IAP's should be obliged to provide, in advance of an application being processed, sufficient detail to the applicant PI's about the criteria which are being used

to assess their application and the timescale within which a decision will be taken. Once a decision is taken, the reason for a negative decision, if decision is negative, should be communicated both to the regulator and the applicant firm. It is important that there is sufficient detail so that an impartial third party can understand why one applicant has been favoured over another.

We understand that the PSR has, to date, concentrated its attention on the 4 large IAP's. But we think that the PSR is over-optimistic about the interest/appetite of these IAP's for API/SPI business. This view is surely supported by comments made by UKF in the recently launched UK Finance working group on bank account access (presentation here: <http://bit.ly/2LJHAR3>).

This makes clear that the major IAP's are concerned above all about liability and accountability issues, a position forced on them by the US regulators. The operation of the ring fence is another significant barrier for the big banks. This means that their appetite to serve all but the largest PI firms will remain unchanged, whatever the PSR makes them do in terms of publishing criteria, etc.

We are not optimistic that the four largest IAP's want to engage with the majority of the PI sector.

In our view, to clarify the appetite of IAP's for the PI sector, the regulator should be enquiring now from each of the big four banks how many accounts they are providing now to authorized or registered payment firms for payment services purposes. And publish this information. Then all sides would know exactly what we are dealing with.

We recognize that some smaller challenger banks/IAP's may already provide some service to the PI sector, or be interested to do so. However, challenger banks interested in the sector, so far, are few in number, and not so far fully engaged. In any case, they will probably lack the capacity to meet all the identified need from PI's. There is no quick fix for the banking crisis which will be met by the challenger banks.

The regulator needs to go much further to demonstrate that they fully understand what is going on around banking for PI's, both in terms of clarifying the serious interest in providing service by the four major IAP's and in clarifying the interest of new entrant IAP's. We think the regulator should, as a matter of principle, require all who are IAP's to publish a policy which states their interest in providing indirect access to PSP's.

The regulator needs to find out whether there are any barriers which need to be removed so that a new applicant IAP can offer service to PSP's (we are thinking of limitations which may be imposed on them by correspondent banking partners). Also, the regulator should be seeking to confirm whether or not new IAP's are able and willing to provide client client fund safeguarding accounts, business accounts, and all the other accounts needed to operate a PI business (including FX accounts).

In any event, the regulator needs to demonstrate that it is fully aware of the other technical approaches by which non bank PI's can engage with IAP's. And will do what it can to promote discussion on the viability of these approaches.

One opportunity which needs to be fully explored is the direct technical access/aggregator model where the role of a sponsor bank to payment systems be limited to settlement only i.e. credit risk but not AML/CTF. We believe that this model may be the most likely opportunity for many more PI's to obtain banking in the future. The AUKPI has undertaken significant thought leadership on this model – we would welcome any assistance from the regulator which could take this model forward, so its potential is fully understood by all stakeholders.

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www.aukpi.org

Barclays

Review of Payment Systems Regulator (PSR) directions made in 2015 – Barclays Response

1. About Barclays

- 1.1. Barclays is a transatlantic consumer and wholesale bank with global reach, offering products and services across personal, corporate and investment banking, credit cards and wealth management, with a strong presence in our two home markets of the UK and the US. With over 325 years of history and expertise in banking, Barclays operates in over 40 countries and employs approximately 85,000 people. Barclays moves, lends, invests and protects money for customers and clients worldwide.

2. Summary

- 2.1. Barclays has restricted its comments on this consultation to the questions related to specific direction one (SD1). SD1 requires Barclays to publish information on the services we offer to enable PSPs to access the UK payment systems of Bacs, CHAPS, Cheque and Credit Clearing Company (C&CCC), Faster Payments and LINK.
- 2.2. Barclays has always supported greater direct access to UK payment systems; and for more PSPs to offer other PSPs indirect access to those systems. We are pleased that over the last few years' direct participation has increased, and new providers have started offering indirect access services.
- 2.3. The purpose of requiring publication of information on indirect access to payment services is to make it easier for PSPs and potential PSPs to review and assess that information – to lower their search costs. For this to be as successful as possible we think that all potential providers of indirect access should be required to publish information on their services.

3. Question 3: Do you think that more needs to be done to increase awareness of the information sponsor banks are required to publish under SD1? If so, do you think that the PSR should take action, including by possibly revising SD1?

- 3.1. We are pleased that PSR acknowledges that PSPs have improved their engagement with potential users of indirect access services.
- 3.2. We regret that many of the individuals that chose to respond to the PSR's questionnaire were not aware of the information available about our and other PSP's indirect access services. However, we are not certain that the success of SD1 should be judged by individual recall alone.
- 3.3. One of the major benefits of demand side remedies, like SD1, is to lower search costs. This is particularly the case where the customer is sophisticated, which we believe to be the case for regulated financial services companies. If an employee of a PSP can find information regarding the access options that are available quickly and in a cost-free manner they can determine their best option.
- 3.4. Using the major search engines and likely search terms (for example, "Barclays indirect access" or "payment system access") the relevant web pages that we and others have published, and the information hub, appear on the front page of the search results. We think that this is evidence that a PSP could easily find the information that will help them to review, assess and make the best decision for their business.
- 3.5. We do recognise that with the creation of the New Payment System Operator (NPSO) there is an opportunity to revamp the access to payment systems information hub. We would encourage NPSO to work with PSPs to consider how best to present the different access options open to PSPs.

4. Question 4: Do you think that the scope of SD1 should be widened to include additional requirements on sponsor banks (such as those set out in paragraph 3.49)?
- 4.1. Barclays thinks that the regulatory and voluntary interventions in this market complement each other well. Regulatory interventions include SD1 and the requirements of the revised payment services directive (PSD2).
 - 4.2. The new requirements under PSD2 will provide FCA and PSR with valuable information about the operation of the market and increase disclosure to PSPs. However, considering PSD2 only applied from January 2018, we are not persuaded that there is a need to extend SD1 to include additional requirements at this time. PSR may wish to revisit that in the future based on the greater intelligence they will now receive.
 - 4.3. We do not think extending SD1 to include the additional requirements suggested by the PSR is necessary. Barclays describes the decision making process we follow to indirect access applicants at the outset. We provide updates throughout the process, and will tell applicants the likely timing of major milestones.
 - 4.4. We are uncertain of the utility of PSR requiring firms to publish information regarding indicative timescales for handling indirect access requests. We consider that publication of indicative timescales may be misleading or provide an incentive for premature decision making. We think that having the time to understand complex applicants, or working with applicants to develop the robust processes necessary for them to provide payment services, leads to a better outcome for competition and innovation. We would caution against any regulatory intervention that introduces any disincentives to work with new and innovative PSPs.
5. Question 5: Do you have any comments on how best we ensure that SD1 addresses all the right IAPs, at the right time? In particular, please comment on whether you think SD1, which currently addresses Barclays, HSBC, Lloyds and RBS, should be amended to address new entrant IAPs or replaced with a General Direction applying to a defined class of IAPs.
- 5.1. We would encourage the PSR to widen the number of providers that SD1 addresses. We think all PSPs actively offering access to payment services to other PSPs should be within the scope of the direction. Exposing all possible payment system access options to PSPs can only help to increase the vibrancy and competitive nature of this market as it will lower the search costs for potential users of these services.
 - 5.2. We do recognise that this will impose an additional regulatory burden on other PSPs. However, if the requirements of the direction remain the same and suitable exemptions are included then we do not consider that an expansion of this burden will dissuade new entrants.
 - 5.3. To ensure that an extension of scope only has a positive impact we would recommend the following exemptions from the revised direction:
 - Exempting PSPs providing indirect access services that are SMEs;
 - exempting PSPs that are not actively seeking new indirect access customers; and,
 - exempting PSPs that have only recently entered the market for indirect access services (for instance, the direction could be phased in and only apply once a PSP has been actively seeking and servicing PSP customers for 12 months).

British Retail Consortium (BRC)



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BRC response to PSR consultation: Review of the PSR Directions made in 2015

June 2018

Introduction

The British Retail Consortium (BRC) is the trade association for the entire retail industry, the UK's largest employer, with a membership accounting for 70% of all UK retail by turnover. All BRC members have an interest in the payment system as end users, in fact retailers are one of the most significant end user groups, processing c. 350m transactions per week and more than £350 billion every year for products & services sold in store, online & over the phone. A priority for the BRC has therefore been to ensure an innovative, transparent and competitive payments market for all retail end users and their customers.

Response to questions 6, 7, 8, 11, 12, 13, 14 & 15:

The BRC are primarily concerned with the outcomes for end users of the payments system and the retail industry. We believe that it is important that the PSR set a clear, robust and ambitious set of Directions or other rules to ensure that payments scheme operators put in place effective mechanisms to increase transparency about decision-making and give service-users a meaningful opportunity to influence decisions that affect them. However, we are agnostic about where those Directions or other rules sit so long as they are effective and rigorously enforced.

The BRC acknowledge that GD4 and GD6 share closely related aims and purposes, and that there may be benefits to combining GD4 and GD6 into a single consolidated governance Direction with an overriding aim to ensure that all payment systems work in the interests of those who use them.

Principle 2, Key Consideration 7 of the CPSS-IOSCO Principles for Financial Market Infrastructures could certainly be an appropriate starting point for developing an over-arching principle for GD4/GD6 purposes but is itself insufficient. Alternatively, the PSR could certainly retain the requirements of GD4 and GD6 as specific but non-exhaustive requirements that sit under the over-arching principle.

The BRC strongly support the extension of all Directions, or future rules to the same effect, to cover all operators in the payment system, including Visa, Mastercard and other operators in the card payment system. The annual BRC Payments Survey shows that card payments have firmly established their place as the dominant payment method in retail payments accounting for the vast majority of transactions by value (75%) and, for the first time from 2016, accounting for more than half of retail purchases by volume (54%). It is therefore crucial that all measures designed to improve payment systems apply equally to card payment operators as they do to interbank operators.

The BRC believe that the PSR can best support end-users of the payments system through measures to tackle cost directly, where there is a regulatory justification for doing so, and indirectly by supporting innovation, transparency and competition. The BRC therefore welcome that the PSR are taking measures to streamline and enhance the Directions around governance and compliance reporting to generate greater transparency and more inclusive decision-making.



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The BRC would also like to see the PSR take a more outcomes focused approach to the payment systems, in line with its role as an independent economic regulator, in addition to current focus on compliance reporting and legal obligations. This should involve direct regulatory intervention where necessary to correct market failure and improve operation of the market.

For card payments there is already a strong case for direct regulatory intervention on card fees and charges.

Since December 2015, when EU legislation was introduced to regulate interchange fees, card scheme fees have increased by £1bn in the UK (CMSPI) and there has been a proliferation in the range of fees themselves. Card scheme fees increased by 31% on average for the retail industry in 2017 (BRC), and in April 2018 increased by more than 70% for Visa transactions alone (CMSPI). Further increases from Mastercard are now emerging.

As consumers do not pay to use their cards there is little public awareness of increasing card fees, but card scheme fees – like any other cost of doing business – are ultimately paid for by the consumer. As card fees have increased, retailers are faced with a choice of increasing prices or absorbing costs to remain competitive – which for smaller retailers could mean going out of business. This should be a serious concern for an independent economic regulator for the payments market.

The PSR should take a proactive approach in supporting the interests of all end-users of the payments system and in addressing the recent surge in scheme fees and other charges for processing credit and debit cards.

The PSR should investigate Visa and Mastercard for their “abuse of a dominant market position” whereby Visa and MasterCard exercise monopolies in the UK’s debit and credit card markets respectively and have imposed pernicious increases to scheme fees in the absence of any enhancements to the service provided.

The PSR should also seek simplification of the fees and charges levied in the card payments industry as a whole, but particularly those levied by the card schemes, whereby the complexity of the charging structure is used as a tool by existing operators to circumvent price transparency and stifle competition. Fees vary depending on the type of card, where it’s issued, where it’s used, and how it’s used, with other fees charged or about to come into effect including:

- Authorisation fees (for both sales & refunds)
- PCI non-compliance fees
- Minimum activity fees
- Joining fees
- Chargeback fees
- Non-secure transaction fees (eg. MOTO, e-commerce without 3DS and mag stripe)
- Terminal rental fees

[REDACTED]

[REDACTED]

[REDACTED]

Cheque & Credit Clearing Company (C&CCC)

8 June 2018

CP18/1 REVIEW OF PSR DIRECTIONS MADE IN 2015

Cheque and Credit Clearing Company (C&CCC) is pleased to comment and respond to the consultation paper 'Review of PSR Directions made in 2015 (CP18/1).'

Background

The Cheque and Credit Clearing Company (C&CCC) was established in 1985 and, from that time until the present day, is proud of its record in providing members with the central payment system services for the exchange and settlement of cheques and credits.

Our objective is to ensure that cheques and credits remain a viable, secure and efficient choice of payment for all users. To achieve this we promote innovation and competition in payment choice by driving improvements in processing, service and efficiency, and we provide a trusted centre of excellence for anyone with an interest in cheques or credits.

In the evolving payments landscape, cheques and credits remain a preferred and trusted payment option among certain groups and for certain types of payment. For example, cheques remain a convenient way for businesses to pay a trade supplier and manage cash flow, and amongst consumers, are a popular way to pay utility bills, tradespeople and clubs or societies. In the past year, nearly three-quarters of UK charities and two-thirds of UK businesses both received and made payments by cheque over a monthly period. In total, the C&CCC cleared 293 million inter-bank cheques in 2017, with a total value of just over £356 billion.

C&CCC has delivered the Image Clearing System (ICS), which will bring the cheque into the digital age via the implementation of an image-based cheque clearing process in the UK.



A full account of our background and objectives can be found on our [website](#), as can more information on the [Image Clearing System](#).

Response

The PSR is reviewing its directions to ensure that they remain relevant and proportionate and that they reflect market realities as well as expected and potential future developments. The consultation seeks views to inform the PSR's decisions on whether changes will be taken forward to the Directions. These include the option to retain a direction as it stands, revise or revoke it.

Question 1: Do you agree with our proposed approach to GD2? If you disagree with our proposed approach, please give your reasons.

PSRs 2017 do not apply to paper cheque-based transfers and therefore the requirements under PSR 2017 may not be appropriate either now or in the future for exempt paper-based payments.

Question 2: Do you agree with our proposed approach to GD3, including in respect of the four payment card systems not covered by GD3 today? If you disagree with our proposed approach, please give your reasons.

No comment or response has been given on this question as it is applicable to the operators of card schemes only.

Question 3: Do you think that more needs to be done to increase awareness of the information sponsor banks are required to publish under SD1? If so, do you think that the PSR should take action, including by possibly revising SD1?

No comment or response has been given to this question.

Question 4: Do you think that the scope of SD1 should be widened to include additional requirements on sponsor banks (such as those set out in paragraph 3.49)?

No comment or response has been given to this question.

Question 5: Do you have any comments on how best we ensure that SD1 addresses all the right IAPs, at the right time? In particular, please comment on whether you think SD1, which currently addresses Barclays, HSBC, Lloyds and RBS, should be amended to address new entrant IAPs or replaced with a General Direction applying to a defined class of IAPs.

This specific direction should address all Indirect Access Providers, regardless of size or the services that they offer.



Question 6: Do you have any comments on our suggestion of consolidating GD4 and GD6 under an over-arching principle setting out the outcomes we expect operators to deliver? In particular, please comment on what impacts, if any, you would expect such a change to have. In your answer, you may want to comment on:

- **whether we should avoid being prescriptive about the mechanisms that operators might put in place, or whether we should retain the requirements of GD4 and GD6 as specific but non-exhaustive requirements that sit under the over-arching principle**
- **whether Principle 2, Key Consideration 7 of the CPSS-IOSCO Principles for Financial Market Infrastructures appears to be an appropriate starting point for developing an over-arching principle for GD4/GD6 purposes**

Being prescriptive could result in decisions being made by groups other than the Board or outside normal governance. An over-arching principle that enables operators to introduce appropriate mechanisms and to promote a culture where the needs of service-users are considered at every stage would support the PSR's objectives.

The Bank of England already supervises some operators against the responsibilities set out in the CPMI-IOSCO principles. We would be concerned about the same set of principles potentially being interpreted differently by different regulatory bodies.

Question 7: Do you have any comments on how well GD6 promotes the aim of increasing operators' transparency in the interests of their service-users? Do you think GD6 could be revised or improved to better promote this aim?

The publication of Board minutes enables service-users to see what decisions have been made by the operator but is it likely that service-users read the minutes for this purpose? Operators should be able to demonstrate to service-users that they are being listened to and engaged throughout the decision-making process and Board minutes are unlikely to fulfil this role.

GD6 could be revised to better promote the aim of increasing operators' transparency by broadening the focus of the direction rather than requiring compliance to the adherence of a single process.

Question 8: Are the existing requirements of GD4 and GD6 clear and easy to understand? (And, if you are a payment system operator, do you also find the existing requirements easy to apply?) If not, do you have any suggestions for improvements to GD4 and GD6?

The existing requirements are clear and easy to apply.



Question 9: Do you have any comments on our suggestion of revoking GD5?

The inclusion of this General Direction has driven both good governance and good behaviour. We would support the retention of GD5. The PSR must have powers to stop such a situation developing again in the future and these powers should not be applied retrospectively.

Question 10: Do you have any comments on our suggestions for compliance reporting in respect of GD2 and GD3?

When the PSR was set up it was clear that it would be different as an economic regulator rather than one regulating by compliance. Reporting should increase its focus on providing evidence of the good outcomes and positive impacts that the General Directions have promoted and created.

Question 11: Do you have any comments on our suggestions for compliance reporting in respect of GD4?

We suggest a different approach to monitoring compliance. For example, with operators responding to individual questions that are prompted by major decisions and/ or specific events that impact service-users. Both the questions and answers could be made publicly available.

Question 12: Do you find the existing requirements of GD1 to be clear and easy to understand? (And, if you are a participant in a FSBRA regulated payment system operator, do you also find the existing requirements easy to apply?) If not, do you have any suggestions for improvements to GD1? As far as possible, please base your answer on your own experiences of interpreting and applying GD1 to date.

The existing requirements are clear and easy to understand. However a revision of the General Definition could also include the implication that the relationship is two-way, which has been our practical experience of GD1.

Question 13: Do you have any comments on our suggestion of replicating the substantive requirements of GD1 under General Directions issued under our PCIFRs and PSRs 2017 powers?

PSRs 2017 do not apply to paper cheque-based transfers and therefore the requirements under PSR 2017 may not be appropriate either now or in the future for exempt paper-based payments.

Question 14: Do you have any other comments on how we might improve the content, text, structure or format of one or more of General Directions 1 to 6 and Specific Direction 1, including the guidance on these Directions? Please give reasons for your suggested changes.

We believe that all forms of payment systems and remittance systems should fall under the same regulation. PayPal, Apple pay, etc appear to be outside the scope of the PSR. Consumer protection



would be enhanced if all were regulated by the PSR. This would also provide equivalence in the eye of the consumer who already sees these payment methods as equal but potentially does not realise that some are, and some are not, regulated.

Where circumstances prevent an operator from complying with the General Directions an exceptions process should be available to the PSR to exercise at its own discretion.

In CP14/1 (A new regulatory framework for payment systems in the UK) it was stated that “We consider that it is inappropriate for executive and independent directors of Interbank Operators, specifically their Managing Directors, to be employed by UKPA (or another third party). Rather, we expect these individuals to be accountable to the board of the Interbank Operator for which they work, without a reporting line to UKPA, the Payments Council or another third party, and we will work with the industry to address this. We will also keep under review the need to issue a direction to address these concerns.”

Thee statement above is fundamental to the way that payment systems are managed, and we consider it important that the PSR considers issuing a direction or including these areas in its guidance as this statement informs much of the corporate knowledge of ‘this is how we do things’ and helps to inform other decisions.

Question 15: If you have not covered it already in your response(s) to other consultation questions, do you have any comments on our current thinking on the intended benefits and anticipated costs of the proposed changes to our 2015 Directions?

We welcome any reduction of the burden on operators that results in benefits, directly or indirectly, for service-users.

Confidentiality

C&CCC is content for this letter to be made available to the public. We will be making it available through our website.

Yours faithfully,

██████████

██████████

Clydesdale Bank



Our Ref MC/JP/PD
Your Ref
Date 10th April 2018

Clydesdale Bank PLC
57 Queen Street
Glasgow
G1 3ER

Tel 0141 2423769

Review of PSR Directions made in 2015
Payment Systems Regulator

Dear Sir

Review of PSR Directions made in 2015

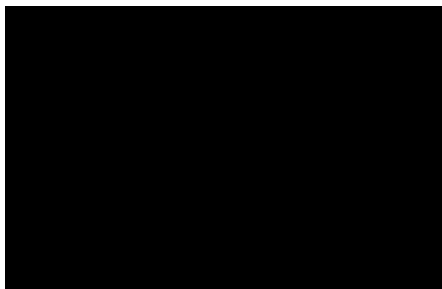
We thank you for inviting us to respond to the consultation: Review of PSR Directions made in 2015. Clydesdale Bank notes that this consultation document has been prepared to seek views on the six General Directions and one Specific Direction adopted in 2015.

As a smaller full service bank with a retail-focused customer base, and as a direct participant in most UK payment schemes, we are cognisant of the important role that the PSR plays in the regulation of the payments industry including both Payment Service Providers (PSPs) and Payment System Operators (PSOs).

Clydesdale is generally supportive of the suggestions documented in the consultation, although, we note that several of the General Directions and the Specific Direction do not impact on us directly as a PSP.

With respect to General Direction 1 (GD1) and question 12 in the consultation, Clydesdale finds the current Direction to be clear and understandable and do not see any particular requirement for this to be revised.

We look forward to continuing to work with the PSR and as this review is carried out would request that the PSR are mindful that any changes made do not unintentionally penalise smaller PSPs or impose unnecessary demands or disproportionate costs on them.



HSBC

HSBC BANK PLC

REVIEW OF PSR DIRECTIONS MADE IN 2015 – CONSULTATION

RESPONSE TO CONSULTATION CP18/1

7 JUNE 2018

PRIMARY SUBMISSIONS

1 Introduction

- 1.1 HSBC welcomes the opportunity to review and comment on the Payment System Regulator's (PSR) Consultation Paper CP18/1 on the Review of PSR Directions made in 2015.
- 1.2 HSBC supports the review of the six General Directions (GDs) and the one Specific Direction (SD), which were defined in 2015 to improve access and governance of payments systems in the UK. We believe that it is the appropriate time to consider whether any revision is necessary, given changes to regulation and legislation in this time period and the establishment of the New Payment Systems Operator (NPSO) to govern three of the principal payment schemes in the UK.
- 1.3 Overall HSBC believes that the proposals in the review are proportionate and appropriate for the changing environment that payment systems operate in. In addition, we have made a number of suggestions, which the PSR may wish to consider to support the objectives of the review.

2 General Observations on the Consultation

- 2.1 A key area of the consultation relates to the provisions of SD1 and the responsibilities of sponsor banks to assist PSPs as they establish an account relationship with them. We have commented specifically on this in Question 4 below.
- 2.2 HSBC fully supports the potential aims of widening the scope of SD1 to provide indirect access seekers with information on the status and progress of their access request and the expected time for a decision to be reached. This is the approach that HSBC already follows and we believe to be good practice in the market.
- 2.3 We are less convinced of the benefits and practicality of the additional points covered in Question 4 and referred to in the second bullet of section 3.49 of the consultation. This suggests the publication of indicative timescales and details of who the relevant decision makers are within an organisation. We believe that timescales will be highly dependent on the nature of the applicant and the information available, which can vary significantly in size, scale and range of jurisdictions in which it operates. This would make it unrealistic to provide an effective single timescale for publication. It would however be entirely appropriate for the applicant to be provided with a bi-lateral indication of the likely timescale for their application.
- 2.4 The publication of the decision maker or decision makers in a complex organisation structure such as that of a global bank would also be unlikely to be effective. There are a range of parties that will all have important contributions to make to a decision

on an indirect access relationship and responsibilities in each of these areas will be subject to regular review and change. Even if one individual was identified as overall decision maker for an application process it is likely that this would change on a regular basis due to personnel and structural change and quickly become out of date. Please see paragraph 4.4.

- 2.5 Overall we believe the generic publication of timescales and decision makers will not help the communication process for an indirect applicant. However we fully support the provision of indicative timescales for a decision and details of a direct contact for all matters connected to their application to be provided on a bi-lateral basis to the applicant. This allows an accurate and realistic assessment of these elements based on the individual demands of the applicant PSP.
- 2.6 With regard to other elements of the consultation, we support the PSR's proposals to improve consistency. This is evidenced in proposals for GD3 to be extended to cover the four payment schemes not currently covered by this direction and the proposals to extend GD1 to regulate all persons under both EU and FSBRA legislation.
- 2.7 Another important area where we have offered comments in the detailed questions below is the increasing need to ensure greater Operator transparency. This is proposed within the suggested changes to GD6. We believe that with the ongoing establishment of independent representation on both NPSO and payment system Boards, linked to limited representation of service users and PSPs, the communication of important information and developments in the public domain becomes increasingly important.
- 2.8 HSBC clearly understands the need for redacted minutes given any legal, commercial or security sensitivities associated with debates and decisions. This suggests that new channels of communication will need to be found to convey the messages contained in the minutes or for communicating changes and developments in a different way. As well as public domain messages new channels may need to be found for member organisations to understand commercially sensitive information or changes that may not be possible to include in public communication channels.

3 HSBC's Relationship with the PSR

- 3.1 HSBC recognises the importance of the relationship we have with the PSR and seeks to work closely on all matters. We believe that it is important that we make this relationship as effective and open as possible to ensure we have a clear understanding of the PSR's requirements and that the PSR in turn are able to clearly see how HSBC is responding to requests and requirements. In our relationship with the PSR, as with all our Regulators, we actively promote a 'no surprises' culture.
- 3.2 We have reflected these principles in our comments on Question 12 below.

1. Question 1: Do you agree with our proposed approach to GD2? If you disagree with our proposed approach, please give your reasons.

1.1 HSBC is supportive of the proposal to align the GD2 Access Rule with the substantive test set out in Regulation 103 of the PSRs 2017. This will assist in consistency of approach for direct and indirect access requirements across relevant payment systems. We recognise that there will be merit in refining the content of compliance reports for operators to align with these changes.

1.2 We support the proposal that the public disclosure provisions for access requirements be retained, as this is necessary to maintain transparency.

1.3 We note that this direction will have no legal effect on the Bank of England as operator of the CHAPS Payment System, but we anticipate that the Bank will be fully aligned and supportive of efforts to facilitate direct access to CHAPS.

2. Question 2: Do you agree with our proposed approach to GD3, including in respect of the four payment card systems not covered by GD3 today? If you disagree with our proposed approach, please give your reasons.

2.1 HSBC considers it logical to revoke GD3 and replace it with wording under Regulation 125 of the PSRs 2017. We note that the content will be closely based on GD3, but that it will apply to operators of all relevant payment systems and assist in monitoring of compliance.

2.2 HSBC fully supports extending the requirement to American Express, DCI, JCBI and UPI. This ensures that all card payment system operators are subject to the same requirements as other operators.

3. Question 3: Do you think that more needs to be done to increase awareness of the information sponsor banks are required to publish under SD1? If so, do you think that the PSR should take action, including by possibly revising SD1?

3.1 HSBC considers that it is pro-active in publishing information relating to the services provided for indirect PSPs. HSBC provides information on its publicly available website, complete with a link to the external Code of Conduct for Indirect Access Providers (IAPs) published by the NPSO.

3.2 HSBC also communicates regularly with its own sponsored indirect PSPs to ensure that they are aware of the Code of Conduct and the useful information that it contains.

- 3.3 We view our publication content to be accurate and helpful to PSPs, but we are conscious that the awareness levels identified by the PSR are lower than we would wish to see. We already communicate with our clients on a frequent basis, to advance their awareness of the Code of Conduct for IAPs and provide information on HSBC's compliance with the Code's commitments. We believe that there is potential to review the frequency and type of communication, in the hope of increasing the levels of awareness and recommend that the IAPs work with the Code Administrator and the PSR to develop an enhanced communication strategy.
- 3.4 We would like to see consistent and increased focus on the NPSO Code of Conduct for IAPs given the rich source of information that this provides. We believe that it is important for the newer IAPs to give a similar focus to the Code of Conduct and ensure that understanding and awareness levels are high amongst their sponsored PSPs.
4. **Question 4: Do you think that the scope of SD1 should be widened to include additional requirements on sponsor banks (such as those set out in paragraph 3.49)?**
- 4.1 HSBC fully supports the potential aims of widening the scope of SD1 to provide indirect access seekers with information on the status and progress of their access request and the expected time for a decision to be reached. This is the approach that HSBC already follows and we believe to be good practice in the market. This is described in the first bullet point within section 3.49.
- 4.2 We are less convinced of the benefits and practicality of the additional points covered in Question 4 and referred to in the second bullet of item 3.49 of the consultation. This suggests the publication of indicative timescales and details of who the relevant decision makers are within an organisation. We believe that timescales will be highly dependent on the nature of the applicant and the information available, which can vary significantly in size, scale and range of jurisdictions in which it operates. This would make it unrealistic to provide an effective single timescale for publication. We would advocate each applicant being provided with a personalised indication of the likely timescale for their application, based on their individual circumstances.
- 4.3 The publication of the decision maker or decision makers in a complex organisation structure such as that of a multi-national bank would also be unlikely to be effective. There are a range of parties that will all have important contributions to make to a decision on an indirect access relationship and responsibilities in each of these areas will be subject to regular review and change. The situation is further complicated in that for banks such as HSBC a Client Selection Committee may co-ordinate the decision making process to ensure that all proper due diligence is undertaken and the prospective client relationship is fully understood.

- 4.4 Even in organisations where it may be possible to identify one individual as overall decision maker for an application process, it is likely that this would change on a regular basis due to personnel moves and corporate restructuring, which would result in the information quickly become out of date. If the intention of the regulation is to ensure a clear point of contact in relation to the Access Rule, HSBC's view would be that for banks, the designated Senior Management Function with responsibility for payment services could be the appropriate senior contact point, accepting that the designated individual may differ from bank to bank depending on the specific business model; however in all cases, responsibility for payment services should be clear and readily available through the bank's Management Responsibilities Map.
- 4.5 Overall we believe generic publication of timescales and decision makers will not help the communication process for an indirect applicant. However we fully support the provision of indicative timescales for a decision and details of a direct contact for all matters connected to their application to be provided on a bi-lateral basis to the applicant. This allows an accurate and realistic assessment of these elements based on the individual demands of the applicant PSP.
5. **Question 5: Do you have any comments on how best we ensure that SD1 addresses all the right IAPs, at the right time? In particular, please comment on whether you think SD1, which currently addresses Barclays, HSBC, Lloyds and RBS, should be amended to address new entrant IAPs or replaced with a General Direction applying to a defined class of IAPs.**
- 5.1 HSBC fully supports a consistent approach to the application of SD1 so it applies to all those Indirect Access Providers offering services in the market.
- 5.2 We believe that the right approach will be to broaden the scope of SD1. We do not consider that there is any need to revoke the provisions in SD1 and replace it with a General Direction.
- 5.3 This ensures consistency of understanding of requirements for the four identified Indirect Access Providers and makes the process easier for the PSR in extending the provisions to all providers in the market.
6. **Question 6: Do you have any comments on our suggestion of consolidating GD4 and GD6 under an over-arching principle setting out the outcomes we expect operators to deliver? In particular, please comment on what impacts, if any, you would expect such a change to have. In your answer, you may want to comment on:**

- **Whether we should avoid being prescriptive about the mechanisms that operators might put in place, or whether we should retain the requirements of GD4 and GD6 as specific but non-exhaustive requirements that sit under the over-arching principle**
- **Whether Principle 2, Key Consideration 7 of the CPSS-IOSCO Principles for Financial Market Infrastructures appears to be an appropriate starting point for developing an over-arching principle for GD4/GD6 purposes**

6.1 HSBC is supportive of the suggestion to consolidate GD4 and GD6 under an over-arching principle which describes the outcomes that operators are expected to deliver.

6.2 It is important that operators understand and recognise the needs of all their service users as change takes place. As has been the case under former and existing structures, the process of ongoing engagement with them throughout the decision making process is important. This is closely linked to the ability for all to see clearly and understand the decisions taken, as has been identified in the proposals.

6.3 In making these changes it is important that any process called for under a new consolidated directive is not overly bureaucratic. It should be focused on ensuring proper interaction, discussion and ideally consensus, rather than setting up an onerous reporting process.

6.4 With regard to the development of an overarching principle, HSBC would concur that CPSS-IOSCO provides a sensible basis on which to develop an overall approach to support GD4 and GD6. We believe that this approach would be consistent with the expectations that have been set for the NPSO and the required focus on the needs of service users.

7. Question 7: Do you have any comments on how well GD6 promotes the aim of increasing operators' transparency in the interests of their service-users? Do you think GD6 could be revised or improved to better promote this aim?

7.1 GD6 and the proposed revisions are helpful in ensuring that operators provide relevant information to service users, particularly where significant change is planned. It will be important that the NPSO embeds these processes and ensures that payment systems under their control follow these effectively.

7.2 With the ongoing establishment of independent representation on both NPSO and payment system Boards, linked to limited representation of service users and PSPs, the communication of important information and developments in the public domain becomes increasingly important. HSBC clearly understands the need for redacted minutes given any legal, commercial or security sensitivities associated with debates and decisions. This suggests that new channels of communication will need to be found to convey the messages contained in the minutes or communicating

changes and developments in a different way. As well as public domain messages new channels may need to be found for direct participants to understand commercially sensitive changes that may not be possible to include in public communication channels.

7.3 Examples of the kind of information that would be useful to the community include progress on the New Payment Architecture, End User Needs solutions under development and updates on the Bank of England Real Time Gross Settlement changes and the implications of these both for direct participants and in HSBC's case, for any impact on our own indirect participants.

7.4 The effective use of the newly established NPSO bodies such as the Participant Advisory Council and End User Advisory Council will help to ensure that the councils are useful mechanisms. However the nature of their structure is that they are advisory bodies to the NPSO and the primary information flow will be feedback to the NPSO. It will be important that a way is found for information to flow out to the wider community of existing PSPs, emerging players and potential new providers on a regular basis, effectively and quickly. This requirement could usefully be reflected in GD6

8. **Question 8: Are the existing requirements of GD4 and GD6 clear and easy to understand? (And, if you are a payment system operator, do you also find the existing requirements easy to apply?) If not, do you have any suggestions for improvements to GD4 and GD6?**

8.1 From the perspective of a PSP the requirements of both GD4 and GD6 are clear and straightforward.

8.2 The most significant challenge going forward will be to ensure that GD4 and GD6 remain relevant and useful in the new governance environment for the payment system operators. As noted in question 7, it will be important that the revisions help to facilitate an information flow not only to the NPSO and its operators but out to the wider financial community in an effective way.

9. **Question 9: Do you have any comments on our suggestion of revoking GD5?**

9.1 HSBC supports the suggestion that GD5 is revoked given the developments that have taken place since it was established in 2015.

9.2 We recognise that whilst addressing conflicts of interest it was narrow in scope and only covered one area, being the simultaneous directorship of an operator and its central infrastructure provider. We concur with the view that the Bank of England Recognised Payment Systems Code of Practice and general corporate governance

principles provide adequate guidance and protections regarding potential conflicts of interest.

10. Question 10: Do you have any comments on our suggestions for compliance reporting in respect of GD2 and GD3?

10.1 HSBC recognises that the recommendations on compliance reporting primarily impact the Payment System Operators and their view will therefore be critical in providing appropriate input to the consultation question. HSBC is supportive of the operators providing a clearer focus on access-related developments and of the numbers of access requests and responses.

10.2 We concur with section 5.12 that a summary of any new issues that impact compliance could also be useful.

10.3 We would also recommend that UK Finance and the work they are leading on Liability in Indirect Access Models is reflected alongside the views of the Payment System Operators. Considerable work was completed by the Payment Strategy Forum and passed to UK Finance, which considered not only liability but a range of issues which may add value to the consultation.

11. Question 11: Do you have any comments on our suggestions for compliance reporting in respect of GD4?

11.1 We note the proposals for compliance reporting in respect of GD4. Service user representation and the means by which it is delivered are important aspects of the relationship between operators and PSPs. Major changes are taking place in the governance of the payment systems leading to the removal of PSP direct representation in these structures. The processes to manage and record service users interactions with payment systems therefore become increasingly important, particularly during major change and operational issues.

11.2 Given these comments we support the suggestions made in section 5.16. This would require operators to keep complete and accurate records of interactions, such as service users requests or views and to be able to provide these to the PSR on request.

11.3 This will help to ensure that the knowledge and practical experience of PSPs is taken in to account in decision making and that the rationale for dealing with service users views is captured.

11.4 We also believe that this accords well with the principles put forward by both the PSR and Payment Strategy Forum to ensure openness and transparency.

12. **Question 12: Do you find the existing requirements of GD1 to be clear and easy to understand? (And, if you are a participant in a FSBRA regulated payment system operator, do you also find the existing requirements easy to apply?). If not, do you have any suggestions for improvements to GD1? As far as possible, please base your answer on your own experience of interpreting and applying GD1 to date.**

12.1 HSBC recognises the importance of the relationship we have with the PSR and seeks to work closely on all matters. We believe that it is important that we make this relationship as effective and open as possible to ensure we have a clear understanding of the PSRs requirements and that the PSR in turn is able to clearly see how HSBC is responding to requests and requirements.

12.2 Overall we find that the requirements set out under GD1 are clear and easy to understand. We would support a consistent approach to regulation of all entities and the suggestions for removing current inconsistencies appear logical.

12.3 Given the long standing relationship that HSBC has with a range of regulators we believe that the principles on which we interact are well established. This guiding principle is to always be open and transparent when engaging with Regulators. We seek to take a proactive stance on issues and some recent examples of this include:

13. **Question 13: Do you have any comments on our suggestion of replicating the substantive requirements of GD1 under General Directions issued under our PCIRs and PSRs 2017 powers?**

13.1 As noted above HSBC is supportive of a consistent approach to regulation of all entities and the suggestions for removing current inconsistencies appear logical. We believe that this will aid the PSR in interacting further with the wider financial community.

14. **Question 14: Do you have any other comments on how we might improve the content, text, structure or format of one or more of General Directions 1 to 6 and Specific Direction 1, including the guidance on these Directions? Please give reasons for your suggested changes.**

14.1 HSBC's comments are already covered in our responses to the previous questions.

15. **Question 15: If you have not covered it already in your response(s) to other consultation questions, do you have any comments on our current thinking on the intended benefits and anticipated costs of the proposed changes to our 2015 Directions?**

15.1 The majority of the proposed changes impact directly on the Payment System Operators. From HSBC's perspective the proposed changes appear practical and proportionate for the NPSO and the operators that they are responsible for, together with those further operators that will now be covered by the revised Directions.

LINK

Dear Sirs,

I write in response to your consultation (CP18/1) below regarding the review of PSR Directions made in 2015.

Please find the following responses representing the position of Link Scheme Ltd as Operator of LINK:

Question on GD2

Question 1:

Do you agree with our proposed approach to GD2? If you disagree with our proposed approach, please give your reasons

LINK Response: As LINK is not subject to General Direction 2 (GD2) Link Scheme Ltd has no comment as to the proposed approach.

Question on GD3

Question 2:

Do you agree with our proposed approach to GD3, including in respect of the four payment card systems not covered by GD3 today? If you disagree with our proposed approach, please give your reasons.

LINK Response: Link Scheme Ltd agrees with the proposal to replace GD3 with a General Direction based on Regulations 103 & 125 as we already comply with the Requirements of these Regulations.

Questions on SD1

Questions 3, 4 & 5

LINK Response: As LINK is not subject to Specific Direction 1 (SD1) Link Scheme Ltd has no comment as to the proposed approach.

Questions on GD4 and GD6

Question 6:

Do you have any comments on our suggestion of consolidating GD4 and GD6 under an over-arching principle setting out the outcomes we expect operators to deliver? In particular, please comment on what impacts, if any, you would expect such a change to have. In your answer, you may want to comment on:

- whether we should avoid being prescriptive about the mechanisms that operators might put in place, or whether we should retain the requirements of GD4 and GD6 as specific but non-exhaustive requirements that sit under the over-arching principle
- whether Principle 2, Key Consideration 7 of the CPSS-IOSCO Principles for Financial Market Infrastructures appears to be an appropriate starting point for developing an over-arching principle for GD4/GD6 purposes

LINK Response: Link Scheme Ltd is supportive of the development of an over-arching principle to provide guidance on the outcomes expected from engagement with service-users. We ask that the any change is mindful of the competitive market that LINK and its service users operate within. The principle should avoid being prescriptive to allow operators to define its own mechanisms and functions to engage with; represent the interests of; and inform service-users of decisions. The over-arching principle should provide a framework, based on the existing requirements of GD4 and GD6

combined through which operators are able to demonstrate how their particular mechanisms and functions comply with the over-arching principle. Link Scheme Ltd recognises that GD4 and GD6 would represent the 'input' and 'output' of the decision making process respectively and that by combining them into a single General Direction should provide operators with the best opportunity to deliver against the principle and demonstrate end to end compliance. Developing an over-arching principle on Principle 2, Key Consideration 7 of the CPSS-IOSCO Principles for Financial Market Infrastructures would be a logical and pragmatic approach to start from as it would draw from existing structures and limit major change for operators who already fall under its requirements.

Question 7:

Do you have any comments on how well GD6 promotes the aim of increasing operators' transparency in the interests of their service-users? Do you think GD6 could be revised or improved to better promote this aim?

LINK Response: Link Scheme Ltd recognises the importance of disclosing the decisions made on behalf of; and in the interests of service-users. LINK believes that the requirements of GD6 are already clear and unambiguous in setting out what is required. Link Scheme Ltd does not see any changes necessary to GD6.

Question 8:

Are the existing requirements of GD4 and GD6 clear and easy to understand? (And, if you are a payment system operator, do you also find the existing requirements easy to apply?) If not, do you have any suggestions for improvements to GD4 and GD6?

LINK Response: Link Scheme Ltd believes the existing requirements under GD4 and GD6 are clear and easy to understand and in line with our response to Question 6 we believe they should be used as part of any new combined General Direction.

Question on GD5

Question 9:

Do you have any comments on our suggestion of revoking GD5?

LINK Response: Link Scheme Ltd believes it to be helpful for the general directions to continue to include a requirement to address potential conflicts of interests. LINK therefore believes it would not be helpful to revoke GD5 in the current market environment.

Questions on compliance reporting

Question 10:

Do you have any comments on our suggestions for compliance reporting in respect of GD2 and GD3?

LINK Response: Notwithstanding that compliance reporting may change as a consequence of any new General Direction based on PSRs 2017, Link Scheme Ltd does not have any comments on the approach or structure of compliance reporting.

Question 11:

Do you have any comments on our suggestions for compliance reporting in respect of GD4?

LINK Response: Link Scheme Ltd believes that in line with its response to Question 6, reporting of compliance for any new over-arching principle or underpinning requirement would need to consider the resultant requirement from combining GD4 and GD6.

Questions on GD1

Question 12:

Do you find the existing requirements of GD1 to be clear and easy to understand? (And, if you are a participant in a FSBRA regulated payment system operator, do you also find the existing requirements easy to apply?) If not, do you have any suggestions for improvements to GD1? As far as possible, please base your answer on your own experiences of interpreting and applying GD1 to date.

LINK Response: Link Scheme Ltd has found the requirements of GD1 to be clear and easy to understand. Link Scheme Ltd feels GD1 enables it to engage and cooperate with the PSR in meeting its requirements and expectations.

Question 13:

Do you have any comments on our suggestion of replicating the substantive requirements of GD1 under General Directions issued under our PCIFRs and PSRs 2017 powers?

LINK Response: As LINK already falls under FSBRA & bound by EU legislation regarding payment system access, we believe it would be beneficial to address any discrepancies with the aim of harmonising the approach.

Question on other areas for improvement

Question 14:

Do you have any other comments on how we might improve the content, text, structure or format of one or more of General Directions 1 to 6 and Specific Direction 1, including the guidance on these Directions? Please give reasons for your suggested changes.

LINK Response: Link Scheme Ltd has no further comments.

Question on intended benefits and anticipated costs

Question 15:

If you have not covered it already in your response(s) to other consultation questions, do you have any comments on our current thinking on the intended benefits and anticipated costs of the proposed changes to our 2015 Directions?

LINK Response: Link Scheme Ltd has no further comments.

Kind Regards,

██████████
██████████████████

Lloyds Bank

LLOYDS BANKING GROUP PLC

**Response to PSR Consultation on the review of PSR
Directions made in 2015**

Submission Date 08/06/2018

Introductory Comments

Lloyds Banking Group (LBG) is pleased to respond to the Payment Systems Regulator's (PSR) consultation of the review of PSR Directions made in 2015.

We agree that it is important and appropriate to review these Directions to ensure they continue to remain relevant, proportionate and effective given the changing regulatory and payments landscape. Equally, it is important for the Directions to remain clear and not result in unnecessary duplication or overlap which may cause confusion with other regulatory requirements.

It is also necessary to ensure that any changes are based on sound evidence and justification that have a clear beneficial outcome whilst supporting the PSR's aim to increase competition. In our experience the Indirect Access directions have had the desired effect in enabling indirect PSPs to be better informed in the choices they have and the services available from the main IAPs, thus driving a beneficial outcome in increasing competition. Therefore, in our opinion any Direction should equally apply to all providers of indirect access services of both Agency and non-agency services.

Given the provision of indirect access is already a competitive market we do not see any evidence or justification for extending the scope of the directions in respect of timescales or eligibility criteria. The assessment of each application varies according to the information available from each customer and the extent of further discussion required in reaching a decision. Any additional requirements in respect of timescales will therefore be outside of our control and would not create any additional benefit.

Finally, LBG is committed to our vision of being the best bank for customers, and continues to invest significantly in our proposition. This has included enhancing our products and services and communicating transparently with our indirect access customers. We support the aims of the existing directions but beyond extending the Specific Direction 1 or a new General Direction to all IAPs, we do not see any justification for extending the scope in this area.

Response to Consultation Questions

ACCESS DIRECTIONS

QUESTION ON GD2

1. DO YOU AGREE WITH OUR PROPOSED APPROACH TO GD2? IF YOU DISAGREE WITH OUR PROPOSED APPROACH, PLEASE GIVE YOUR REASONS.

- 1.1 Yes, we agree with the PSR's approach to revise GD2 rather than implementing a standalone provision. In doing so, we feel that the revised text should mirror Regulation 103 of the Payment Services Regulations 2017 (PSRs 2017) as closely as possible for consistency.

QUESTION ON GD3

2. DO YOU AGREE WITH OUR PROPOSED APPROACH TO GD3, INCLUDING IN RESPECT OF THE FOUR PAYMENT CARD SYSTEMS NOT COVERED BY GD3 TODAY? IF YOU DISAGREE WITH OUR PROPOSED APPROACH, PLEASE GIVE YOUR REASONS.

- 2.1 Yes, we agree with the PSR's approach to revoke GD3 and replace it with a General Direction under Regulation 125 of the PSRs 2017, which puts in place arrangement for monitoring compliance with Regulation 103 of the PSRs 2017. We feel it is important to bring the four payment card system operators (American Express, Diners Club International, JCB International and UnionPay International) not covered by GD3 today into alignment for compliance and monitoring purposes.

QUESTIONS ON SD1

3. DO YOU THINK THAT MORE NEEDS TO BE DONE TO INCREASE AWARENESS OF THE INFORMATION SPONSOR BANKS ARE REQUIRED TO PUBLISH UNDER SD1? IF SO, DO YOU THINK THAT THE PSR SHOULD TAKE ACTION, INCLUDING BY POSSIBLY REVISING SD1?

- 3.1 No, we do not feel that more needs to be done to increase awareness of the information sponsor banks are required to publish under SD1. Whilst awareness and accessibility of what information sponsor banks are required to publish is important to indirect PSPs, (IPSPs) we believe that more information is available than ever before as cited in the PSRs Access and Governance Report 2018. In our experience, this information is sufficient for potential indirect PSPs to understand the services available from the main IAPs and to make an informed approach to request access.
- 3.2 Although we note the PSR's findings following the survey of IPSPs, we are not aware of any concerns that have been raised to LBG in this regard. In fact, in our experience, those customers requiring information have been able to find what they need without issue. With this in mind, we do not see any evidence of market failure and therefore no justification or need to increase awareness further.
- 3.3 We do not believe that a perceived lack of awareness of the information available is a barrier for IPSPs requiring indirect access services. Furthermore, we are content that the information published is sufficient to give IPSPs the ability to identify what they require through sponsor bank websites and the "Access to Payments" website as well as the individual payments systems operator's websites.

3.4 As the PSR is aware, Regulation 105 also places obligations on credit institutions to provide access criteria that the credit institution applies when considering access requests for bank accounts to PSPs. Whilst still too early to comment on the impact of this regulation, we believe that this will also help strengthen PSPs' awareness of the information sponsor banks publish on their websites.

4. **DO YOU THINK THAT THE SCOPE OF SD1 SHOULD BE WIDENED TO INCLUDE ADDITIONAL REQUIREMENTS ON SPONSOR BANKS (SUCH AS THOSE SET OUT IN PARAGRAPH 3.49)?**

4.1 No, we do not agree that the scope of SD1 should be widened to include additional requirements of sponsor banks such as notifying indirect access seekers about the progress of their application or publishing timescales for the handling of indirect access requests. We see no evidence of market failure which justifies such requirements. Requests for indirect access services will, by their nature, vary in complexity and therefore assessment timeframes may not be consistent on a case by case basis as they will require information to be provided by the applicant that would be outside of the IAP's control. Whilst we acknowledge that the Code does not come into effect until a PSP is providing access to payment systems, we do agree that the communication between PSPs and the sponsor bank to which they are applying should be transparent and timely.

4.2 It is important that any prospective client has clear expectations on the process surrounding the review and progress of their application at the pre-contractual stage. We believe that the responsibility to manage communication should be with the individual PSP to set and manage in an open and transparent way with each new applicants and do not feel it necessary for the scope of any Direction or the Code of Conduct to be widened in this regard.

4.3 Any modifications to the Specific or General Direction need to strike a balance between providing greater transparency of services available to PSPs and the competitive nature of agency banking and provision of other Indirect Access services. Being overly prescriptive in the form of Industry Service Level Agreements and / or eligibility criteria when assessing requests for indirect access would be contrary to the objective of increasing competition.

4.4 LBG provides indicative timescales on our website which shows the length of time an application may take depending on the complexity of a request. Every request is treated with the same level of review and integrity and if a request is seen as possible in principle, LBG will then enter into further detailed discussion with the customer. In the event that LBG is unable to support a request for the provision of indirect access, we fully discharge our responsibilities under Regulation 104 and 105 of the PSRs 2017. Where a conditional offer or an agreement in principle is made we ensure that the customer is fully aware of the procedure and timescales for further exploration based on the individual needs and requirements.

5. **DO YOU HAVE ANY COMMENTS ON HOW BEST WE ENSURE THAT SD1 ADDRESSES ALL THE RIGHT IAPS, AT THE RIGHT TIME? IN PARTICULAR, PLEASE COMMENT ON WHETHER YOU THINK SD1, WHICH CURRENTLY ADDRESSES BARCLAYS, HSBC, LLOYDS AND RBS, SHOULD BE AMENDED TO ADDRESS NEW ENTRANT IAPS OR REPLACED WITH A GENERAL DIRECTION APPLYING TO A DEFINED CLASS OF IAPS.**

5.1 We agree that any Direction (specific or general) concerning the provision of indirect access services (agency and non-agency) should apply to all sponsor banks equally which takes account of new players entering into the market. Ensuring that all IAPs are addressed would ensure that (i) customers receive the same level of information no matter who the provider; and (ii) there is a level playing field among sponsor banks, thereby meeting the PSR's objectives.

5.2 The market for indirect access is a competitive one and therefore applying a specific direction to some providers is contrary to the principle of an open and fair market. Regardless of scale and maturity, any new IAPs and all other existing IAPs should expect to provide the same level of transparency around the provision of both Agency and non-Agency services as established sponsor banks.

A move to a General Direction, which applies equally to everybody, would therefore be appropriate given the improvements and developments with the provision of access as cited by the PSR in their Access & Governance Report 2018.

GOVERNANCE DIRECTIONS

QUESTIONS ON GD4 AND GD6

6. **DO YOU HAVE ANY COMMENTS ON OUR SUGGESTION OF CONSOLIDATING GD4 AND GD6 UNDER AN OVER-ARCHING PRINCIPLE SETTING OUT THE OUTCOMES WE EXPECT OPERATORS TO DELIVER? IN PARTICULAR, PLEASE COMMENT ON WHAT IMPACTS, IF ANY, YOU WOULD EXPECT SUCH A CHANGE TO HAVE. IN YOUR ANSWER, YOU MAY WANT TO COMMENT ON:**

- **WHETHER WE SHOULD AVOID BEING PRESCRIPTIVE ABOUT THE MECHANISMS THAT OPERATORS MIGHT PUT IN PLACE, OR WHETHER WE SHOULD RETAIN THE REQUIREMENTS OF GD4 AND GD6 AS SPECIFIC BUT NON-EXHAUSTIVE REQUIREMENTS THAT SIT UNDER THE OVER-ARCHING PRINCIPLE**
- **WHETHER PRINCIPLE 2, KEY CONSIDERATION 7 OF THE CPSS-IOSCO PRINCIPLES FOR FINANCIAL MARKET INFRASTRUCTURES APPEARS TO BE AN APPROPRIATE STARTING POINT FOR DEVELOPING AN OVER-ARCHING PRINCIPLE FOR GD4/GD6 PURPOSES**

6.1 In principle we support the suggestion of consolidating GD4 and GD6 into one overarching principle that sets out the outcomes that the PSR require around taking into account the needs of service users as well as the engagement and transparency throughout the decision making process. Whilst the payment system operators will be better placed to comment, we do have some observations as follows;-

6.2 When ensuring that the needs of service users are taken into account, we believe it is especially important to ensure that a consistent approach is applied to the way in which all operators apply and interpret this requirement. It is essential that operators achieve

the right balance and fair representation of all participants in the decision making process ensuring taking into account the needs of their service users as well as their participants, to ensure that the right people are involved in the relevant conversations to drive the right decisions. With this in mind, it is important to ensure that subject matter expertise and knowledge is not lost or excluded from advisory positions and PSO board composition, in fact this would, in our opinion, be detrimental to end customers as we provide the services to them. By way of an example, we understand that there are no longer any bank or acquirer members on the LINK board following a recent board driven independent governance review.

7. DO YOU HAVE ANY COMMENTS ON HOW WELL GD6 PROMOTES THE AIM OF INCREASING OPERATORS' TRANSPARENCY IN THE INTERESTS OF THEIR SERVICE-USERS? DO YOU THINK GD6 COULD BE REVISED OR IMPROVED TO BETTER PROMOTE THIS AIM?

7.1 The requirement of GD6 for the operators to publish the minutes of their governing bodies has helped improve transparency for those that have an interest in digesting them. Working closely with the operators themselves we are confident that decisions made are in the interests of service users.

7.2 During the process overseeing the integration of the operators of Bacs, FPS and C&CCC into the NPSO we have seen strong clear evidence that the interests of service users are held in high regard through the establishment of the End User and Participant Councils.

8. ARE THE EXISTING REQUIREMENTS OF GD4 AND GD6 CLEAR AND EASY TO UNDERSTAND? (AND, IF YOU ARE A PAYMENT SYSTEM OPERATOR, DO YOU ALSO FIND THE EXISTING REQUIREMENTS EASY TO APPLY?) IF NOT, DO YOU HAVE ANY SUGGESTIONS FOR IMPROVEMENTS TO GD4 AND GD6?

8.1 From a participant working closely with the payment system operators we do feel that the requirements of GD4 and GD6 are clear and easy to understand.

QUESTION ON GD5

9. DO YOU HAVE ANY COMMENTS ON OUR SUGGESTION OF REVOKING GD5?

We are supportive that GD5 should be revoked as it is no longer relevant given the developments around the new ownership of Vocalink and the application of competitive procurements for future central infrastructure contracts.

COMPLIANCE REPORTING OBLIGATIONS

QUESTIONS ON COMPLIANCE REPORTING

10. DO YOU HAVE ANY COMMENTS ON OUR SUGGESTIONS FOR COMPLIANCE REPORTING IN RESPECT OF GD2 AND GD3?

10.1 We feel that it is important to ensure that any ongoing compliance reporting provides value and benefit to the PSR without imposing an unnecessary overhead on the PSOs.

11. DO YOU HAVE ANY COMMENTS ON OUR SUGGESTIONS FOR COMPLIANCE REPORTING IN RESPECT OF GD4?

- 11.1 We believe that GD4 has produced good outcomes for service users in the transparency of decision making and therefore support the PSRs proposal to combine GD4 and GD6 into one single consolidated Governance Direction which also takes into account the approach around compliance reporting.

PARTICIPANTS RELATIONSHIPS WITH THE PSR

QUESTIONS ON GD1

12. DO YOU FIND THE EXISTING REQUIREMENTS OF GD1 TO BE CLEAR AND EASY TO UNDERSTAND? (AND, IF YOU ARE A PARTICIPANT IN A FSBRA REGULATED PAYMENT SYSTEM OPERATOR, DO YOU ALSO FIND THE EXISTING REQUIREMENTS EASY TO APPLY?) IF NOT, DO YOU HAVE ANY SUGGESTIONS FOR IMPROVEMENTS TO GD1? AS FAR AS POSSIBLE, PLEASE BASE YOUR ANSWER ON YOUR OWN EXPERIENCES OF INTERPRETING AND APPLYING GD1 TO DATE.

- 12.1 As a financial institution, LBG is accustomed to dealing with a number of regulators and takes an open and cooperative approach with them. As such, LBG is used to operating within the parameters and rules similar to GD1, such as the FCA's Principle 11. LBG has not found the requirements difficult to apply, nor have we had any particular issues around interpretation.

- 12.2 In the interests of continued legal certainty, LBG would suggest leaving the current direction un-amended.

13. DO YOU HAVE ANY COMMENTS ON OUR SUGGESTION OF REPLICATING THE SUBSTANTIVE REQUIREMENTS OF GD1 UNDER GENERAL DIRECTIONS ISSUED UNDER OUR PCIFRS AND PSRS 2017 POWERS?

- 13.1 As a regulated participant in the FSBRA designated systems, GD1 applies to LBG.

- 13.2 As a matter of principle, we believe that a level playing field should apply to all regulated institutions, whether they fall under FSBRA or EU legislation. We therefore consider that the PSR should revise GD1 to also encompass those persons regulated under EU legislation but not FSBRA.

OTHER ISSUES RELEVANT TO THIS REVIEW

QUESTION ON OTHER AREAS FOR IMPROVEMENT

14. **DO YOU HAVE ANY OTHER COMMENTS ON HOW WE MIGHT IMPROVE THE CONTENT, TEXT, STRUCTURE OR FORMAT OF ONE OR MORE OF GENERAL DIRECTIONS 1 TO 6 AND SPECIFIC DIRECTION 1, INCLUDING THE GUIDANCE ON THESE DIRECTIONS? PLEASE GIVE REASONS FOR YOUR SUGGESTED CHANGES.**
- 14.1 No, we do not have further comments on how the PSR may further improve the content, text, structure or format of the general and specific directions.

MATTERS WE MUST HAVE REGARD TO IN THIS REVIEW.

QUESTION ON INTENDED BENEFITS AND ANTICIPATED COSTS

15. **IF YOU HAVE NOT COVERED IT ALREADY IN YOUR RESPONSE(S) TO OTHER CONSULTATION QUESTIONS, DO YOU HAVE ANY COMMENTS ON OUR CURRENT THINKING ON THE INTENDED BENEFITS AND ANTICIPATED COSTS OF THE PROPOSED CHANGES TO OUR 2015 DIRECTIONS?**
- 15.1 If the PSR were to implement changes which widened the scope and included additional requirements on sponsor banks there would be an inevitable additional cost of implementation. Furthermore, regulatory grade reporting to demonstrate compliance to any additional requirements would lead to further cost. As stated in our response to the questions on SD1, there is no evidence in our opinion of the need to implement additional requirements; however should the PSR feel that this is necessary we would need to fully assess this impact once the PSR consults on the changes that it proposes later this year.

Mastercard

CONSULTATION RESPONSE

Mastercard response to the PSR's "Review of PSR Directions made in 2015: Directions on access, governance and participants' relationship with the PSR (General Directions 1 – 6 and Specific Direction 1)"
CP18/1

8 JUNE 2018

Introduction

Mastercard welcomes the PSR's review of PSR Directions made in 2015: Directions on access, governance and participants' relationship with the PSR (General Directions 1 – 6 and Specific Direction 1) (the "Review"). In particular Mastercard supports the PSR's proposal to extend the application of the requirements set out in GD3 to three party card schemes. Equal regulatory treatment of all card schemes ensures fair competition and plays a vital role in increasing the benefits of electronic payments for consumers and merchants.

As set out below, however there are some points of detail in relation to the PSR's proposals on GD3 where Mastercard has concerns. In addition Mastercard would also welcome greater clarification and guidance in relation to some aspects of GD1 to gain a better understanding of the PSR's expectations from a compliance perspective in this area.

This response focuses on the Review questions relevant to Mastercard's business.

Question 2 Do you agree with our proposed approach to GD3, including in respect of the four payment card systems not covered by GD3 today? If you disagree with our proposed approach, please give reasons.

Mastercard agrees with the PSR's decision to extend the scope of the requirements contained in GD3 to three party card schemes, as well as to issue the new direction under its PSRs 2017 powers, rather than its FSBRA powers. Mastercard notes that the PSR's decision to extend the scope of the requirements contained in GD3 is to reflect the legislative changes introduced by Regulation 103 of the PSRs 2017. Mastercard strongly supported the PSD2 extension of the access requirements to certain operating models of three party schemes and welcomed the acknowledgement contained in Recital 52 that they directly compete with four-party schemes.

Regulation 103 requires that both three and four party card schemes provide access to their payment systems on a non-discriminatory basis. In this regard the Court of Justice of the European Union ("CJEU") in Case C-643/16 recently confirmed how Regulation 103 applies to three party card schemes. The CJEU held that Regulation 103 applies not only to three party card schemes operating with licensees, but also where those schemes operate with co-branding partners (where the partner is a payment service provider) and agents. Equal regulatory treatment by the PSR of all card schemes, including the application of GD3, is therefore essential for fair competition which will increase benefits for consumers and merchants. Extending the application of the requirements contained in GD3 to include all card payment schemes is also critical to the PSR delivering on the aims of this Review as set out at para 2.19, in particular the PSR's objective to promote competition, innovation and the interests of service-users and ensure that regulation reflects market realities and the wider legislative context.

Mastercard also strongly encourages the PSR to adopt the language of the CJEU in the revised wording of the new GD3 to make clear that the direction applies to three party card schemes in each of the circumstances listed above. This will provide the regulatory certainty required for three party card schemes in knowing precisely how the regulatory obligations apply to them. In turn, when the three party schemes publish their access criteria, it will provide greater clarity and

certainty for potential participants in those schemes, which will therefore be able to make decisions with confidence. The absence of clear access requirements would be very likely to deter market entry and thereby fail to fulfil the pro-competitive objectives of PSD2. Indeed Regulation 103 requires that access rules should “not prevent, restrict or inhibit access or participation”, which risks being fatally undermined if the PSR does not require full transparency of the relevant criteria.

Finally Mastercard is concerned that in relation to the publication of access requirements, the PSR notes at para. 3.27 of its Review that this “might mean different things for each scheme” given the nature of their business. Whilst there are invariably differences in how each card scheme is set up and operates, Mastercard submits that this cannot justify any differentiation in the application of the requirements of GD3 between card schemes including in relation to publication of access requirements. As explained, such an approach risks fundamentally undermining the objectives of PSD2 and indeed would also be at odds with the aims of this Review as set out at para. 2.19 and contrary to the recent CJEU decision. Equally Regulation 103 requires that rules themselves be non-discriminatory and so the PSR should be careful not to discriminate in how it applies that requirement, particularly in light of its own duties to promote competition and the interests of all service-users.

Question 10 Do you have any comments on our suggestions for compliance reporting in respect of GD2 and GD3?

For the reasons set out in response to Question 2, Mastercard also welcomes the PSR’s decision to extend the scope of the requirements on compliance reporting contained in GD3 to three party card schemes.

In respect of the PSR’s approach to compliance reporting more generally, Mastercard agrees that for compliance to be as effective as possible compliance reports should be genuinely valuable and support the PSR’s ongoing work in this area, whilst minimising unnecessary cost and administrative burden on card scheme operators. Mastercard considers that the current annual compliance reporting regime is working reasonably well and delivering on these objectives. However, Mastercard agrees with the PSR that reporting on access arrangements where these have remained the same from year to year is likely to be of less value to the PSR. Mastercard agrees with the PSR that a compliance reporting regime with a clearer focus on developments and changes in access arrangements would be more beneficial to the PSR.

In this context, it is worth noting the very significant difference in the historical framework for applying GD2 and GD3. The PSR will be aware that whilst there were long-term widespread concerns regarding the difficulties of obtaining access to some interbank schemes, no similar concerns had ever been expressed in relation to access to card schemes. Therefore, although the compliance reporting obligations were similarly framed, the content (and likely usefulness) of the reports varied significantly, as was evidenced both the PSR’s own ‘Access and governance reports’ and the PSR’s differing levels of engagement with the respective schemes.

The PSR should not therefore assume that any newly designed access compliance reporting process should necessarily be identical for both interbank and card schemes. With the benefit of 3 years’ experience in access compliance monitoring, the PSR should design a process which

reflects the realities of access difficulties which in fact exist, as well as the level of concern or objections expressed by potential participants. It should not simply apply a reporting model to card schemes, which has in effect been designed to reflect concerns about access to interbank schemes.

Furthermore, the PSR should also be prepared to apply its model differently, to different card schemes, if circumstances dictate that it would be necessary or logical to do so. Specifically, if the PSR is receiving complaints in relation to one particular card scheme (including three party card schemes) it should direct its compliance activity towards that particular scheme, rather than necessarily applying the same approach to all.

Mastercard notes that the PSR is also considering whether an ad hoc reporting regime would be useful. Without further detail on how such a regime would operate in practice it is difficult for Mastercard to comment meaningfully on this (e.g. in what circumstances would the PSR envisage issuing an ad hoc information request, what type of information would the PSR request, would an ad hoc request likely be directed at all card payment scheme operators at the same time or would the request be targeted to a particular operator only etc.).

However, Mastercard is concerned that an ad hoc reporting regime could lack the regulatory certainty of annualised reporting which allows the PSR to monitor and measure compliance regularly across all card payment schemes in a given year. If the PSR was to adopt this approach, it should provide sufficient detail as to how and when the obligations are likely to apply and what type of data would be needed, in the guidance which accompanies the GDs. It should avoid creating a general regulatory obligation to provide 'whatever data the PSR determines is required to allow it enforce Regulation 103', with the detail not known until the information request is received.

Mastercard is also concerned that ad hoc reporting could result in a greater administrative burden and increased costs, without leading to a corresponding efficacy in the reporting regime. We would want to ensure that adequate notice and timescales are permitted for any information which the PSR may seek. Although the PSR will only be interested in issues as they relate to the UK, Mastercard manages access and onboarding processes at a pan-European level, which can make the provision of relevant data more challenging.

Question 12 Do you find the existing requirements of GD1 to be clear and easy to understand? (And, if you are a participant in a FSBRA regulated payment system operator, do you also find the existing requirements easy to apply?) If not, do you have any suggestions for improvements to GD1? As far as possible, please base your answer on your own experiences of interpreting and applying GD1 to date.

Mastercard recognises the central importance of having an open and cooperative relationship with the PSR and supports the PSR's continued focus in this area to ensure that the information it receives under GD1 is relevant and useful. Mastercard would, however welcome greater clarity in relation to certain aspects of GD1 to gain a better understanding of the PSR's expectations from a compliance perspective.

In particular it would be helpful if the PSR could provide more detailed guidance on the types of developments or changes that could materially adversely impact on the PSR's statutory objectives and duties and would consequently be notifiable under GD1. It would also be helpful to have more guidance on how notifiable issues should be brought to the PSR's attention, e.g. should notification be in writing and specifically reference GD1, is there a particular point of contact within the PSR or a default inbox where notification should be submitted?

To date, Mastercard has generally adopted the approach of providing either an email notification, a verbal update as part of routine meetings with the PSR or (in more urgent cases) a phone call to whoever we believe is the most relevant PSR staff member with an interest in or responsibility for the issue in question. In doing so, we have not referenced GD1 specifically, and so it may not have been apparent to the individual that we were making a 'GD1 notification' (if indeed, that is a relevant or important consideration). Generally, we have received no subsequent follow-up from the PSR.

Mastercard would welcome a better understanding from the PSR as to how well it believes the process is working at the moment. Whilst acknowledging that this Review is encompassing all GDs, does it perceive the need for any particular improvements or changes in this area, or is the PSR broadly satisfied that it is receiving correct notifications.

Question 13 Do you have any comments on our suggestion of replicating the substantive requirements of GD1 under General Directions issued under our PCIFRs and PSRs 2017 powers?

Mastercard agrees that the remit of GD1 should be extended to encompass all participants that the PSR regulates under any legislation and regulation for which it is the competent enforcement authority. It should indeed, therefore make Directions under FSBRA, the PCIFRs and the PSRs in order to ensure that the regulation is comprehensive.

The arguments which we outlined in response to Question 2 would apply similarly in this case. Although the requirements of GD1 should not be thought of in terms of a regulatory burden on participants to which it applies, it is important that PSR has a full and comprehensive view of the entire market which it regulates. If certain participants were exempted from GD1 and the PSR's knowledge was thereby limited, it might affect how the PSR chose to perform its functions and the parts of the market which it decided to target.

This would be inequitable from the perspective of participants who may therefore be subject to greater regulatory oversight and attention than others, but it would also risk distortions to competition and the market more generally, which the PSR should be mindful to avoid.

Questions on GD4 and GD6 (questions 6 – 8)

Whilst Mastercard has no specific comments in response to Questions 6 – 8 on GD4 and GD6 as these directions do not apply to card schemes, Mastercard would nevertheless like to reiterate its

view that these types of obligations would be less obviously useful or relevant in the context of international card schemes, which are fundamentally different to domestic interbank schemes in both their structure and decision making processes. Whilst Mastercard strongly favours a level-regulatory playing field for similar market participants, the PSR should recognise differences where they exist and not attempt to design a 'one size fits all' regulatory framework where it may not be appropriate to do so.

Mastercard notes that GD4 and GD6 were put in place to address concerns that interbank payment system operators' governance arrangements were not working in the interests of service-users. As with the access issues discussed in response to Question 10, the PSR will be aware that there were long-term widespread concerns in relation to interbank governance and decision-making processes, which have never been shared in the cards market. The PSR will have seen from Mastercard's access compliance reports that we do not receive any concerns from customers on that subject and nor do we receive general representations about a wish to be better represented in our decision-making processes.

For Mastercard, ensuring that the interests of all service-users are fully considered when developing our system, products and solutions, and reflected in our governance structure, is fundamental to the success of our business. Indeed, the vast majority of staff employed by Mastercard's UK business work in account management, which means that their sole focus is to manage and interact with customers, responding to whatever concerns or issue they may raise. These relationships would not work as well as they do, if Mastercard was not sensitive to the views of its customers. In addition, we employ teams in both the UK and Europe whose responsibility is to work directly with merchants. Whilst it is obviously not feasible for Mastercard to have a relationship with every merchant, the teams proactively engage with them on a wide range of issues.

Our open system promotes a culture of being oriented toward and responsive to our service-users, including by taking into account the interests of service-users in all decision-making and being transparent about how decisions affecting them have been taken. Therefore the concerns regarding interbank payment systems do not exist in relation to Mastercard's business and card schemes more broadly. This was also recognised by the PSR in PSR CP 14/1 "A new regulatory framework for payment systems in the UK".¹ Consequently there appears to be no clear benefit in extending these directions to card schemes.

¹ The focus of the PSR's analysis and proposed solutions in PSR CP 14/1 "A new regulatory framework for payment systems in the UK" was largely around interbank payment systems rather than card payment systems and the consultation provided little detail about specific examples of how acquirers and merchants believe their views are not sufficiently accounted for. The PSR even stated that to address the concerns they have identified around ownership, governance and control of payment systems, particularly their degree of openness and representation of service users, "we will change the way these systems are controlled and governed, and how decisions are made. This is particularly relevant for not-for-profit interbank systems the owners of which have the ability to control and influence the payment systems' rulebooks."

New Payment System Operator (NPSO) (now Pay.UK)

New Payment System Operator
2 Thomas More Square
London
E1W 1YN

07 June 2018

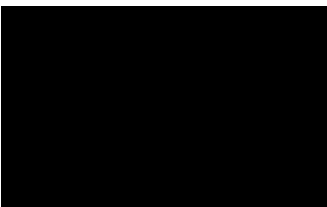
NPSO RESPONSE: CONSULTATION PAPER CP 18/1 REVIEW OF PSR DIRECTIONS MADE IN 2015

Thank you for giving the New Payment System Operator (NPSO) the opportunity to respond to the consultation on the Payment System Regulator (PSR) 2015 Directions. As the operator of Bacs and FPS we have focussed our commentary and suggestions to the General Directions (GDs) and reporting requirements that relate to us.

The NPSO has been established in response to the Payments Strategy Forum's proposed consolidation of the three retail Payment System Operators (PSOs); Bacs Payment Schemes Limited (Bacs), Cheque and Credit Clearing Company Limited (C&CCC) and Faster Payments Scheme Limited (FPSL). Bacs and FPSL became wholly owned subsidiaries of the NPSO as of the 1 May 2018 and at that point we became responsible for meeting the PSR's directions. C&CCC will join the NPSO in July 2018 and this will include the transfer of ownership of the Cheque Image Clearing System. Due to the timeframes we expect C&CCC to respond separately.

We value our engagement with the PSR and believe it is vital that we continue to develop a constructive and collaborative way of working. We are broadly supportive of the recommendations outlined in your Consultation Paper (CP). We have taken the opportunity in our response to highlight certain areas where we believe the application of the directions can be improved. In our view the revised General Directions, if implemented in a not overly prescriptive way that allows the NPSO to develop our own ways of working, will help derive the best outcomes for users and the wider payments ecosystem.

Yours sincerely



CONSULTATION RESPONSE

Question 1: Do you agree with our proposed approach to GD2?

We support aligning the Access Rule in GD2 with the substantive access test used in the context of the Payment Services Regulations 2017.

Question 6: Do you have any comments on our suggestion of consolidating GD4 and GD6 under an over-arching principle setting out the outcomes we expect operators to deliver?

Our aim is to include stakeholders in our deliberations as part of the Board decision-making processes. We intend to bring together the interests of our stakeholders to articulate a comprehensive but appropriately differentiated, well-evidenced view of how the NPSO can help meet users' needs, not just now, but in the future. We recognise the method for doing so must be right for the stakeholders concerned and will include, but not be limited to, written public consultations, research, bilateral dialogue and larger decision making groups. Building on the good practices from the Bacs; C&CCC and FPSL we set out in our response to Hannah Nixon's letter¹ a number of processes and supporting activities to achieve this. We have engaged the PSR regularly as our thinking develops.

It is worth noting this is perhaps one of the most challenging elements of our work and we will need to consider the Cost Benefit Analysis of any engagement. We are giving specific thought to how we continue to meaningfully engage those stakeholders not directly involved in our governance model, i.e. not represented on our Board or Advisory Councils. There are four core ways that stakeholders can engage with the NPSO:

<p>STRATEGIC DIRECTION</p>	<p>End User and Participant Advisory Council</p> <ul style="list-style-type: none"> - 12 – 15 members each, appointed by NPSO Board - Chaired by Independent Non-Executive Directors - Provide NPSO Board with advice and recommendations - Will report on progress
<p>ACCOUNTABILITY</p>	<p>Guarantors</p> <ul style="list-style-type: none"> - Criteria based membership - Will automatically be a part of the Community - Rights as enshrined in the Articles and Companies Act afforded to a member of a company limited by guarantee
<p>PARTICIPATION</p>	<p>The Community</p> <ul style="list-style-type: none"> - Open participation, with no legal obligations - Will receive regular communications - Opportunity to attend conferences / roundtables and respond to consultations
<p>OPERATIONAL EXPERTISE AND INPUT</p>	<p>Working Groups</p> <ul style="list-style-type: none"> - Membership determined by relevant skills and expertise - Meet for a specific purpose / objective and timeframe

¹ http://www.newpso.uk/180328_psrresponseletter.pdf

The PSR highlighted concerns in its 2018 Access and Governance report in how well operators to date have taken account of service-users' needs, interests and views in their decision-making process. We note these and believe the consolidation of GD4 and GD6 will help us address these by allowing the NPSO to develop an “outcomes” rather than purely “means” based process.

We support a principle led approach based on “Principle 2 Key Consideration 7 of the CPMI-IOSCO Principle for Financial Market Infrastructure”. We have concerns that embedding something more prescriptive may lead to a culture that focusses on meeting the specific requirements, rather than intent, of the direction.

Question 7: Do you have any comments on how well GD6 promotes the aim of increasing operator’s transparency in the interests of their service-users? Do you think GD6 could be revised or improved to better promote this aim?

Publishing the minutes of our Board as set out in GD6 is only one aspect of increasing transparency in the interests of Service Users. In our experience it doesn’t fully meet the aim of increasing transparency about decision-making as they tend to document the final decision rather than all the various deliberations that helped inform that decision. This is for practical reasons as the deliberations could have taken place over an extended period and involved a number of different engagement points. Saying that, we do see value in publishing the minutes, and will continue to do so irrespective of whether or not the PSR consolidates GD4 and 6 but this will be as part of a wider package of measures.

Question 8: Are the existing requirements of GD4 and GD6 clear and easy to understand? (And if you are a payments system operator, do you also find the existing requirements easy to apply?) If not, do you have any suggestions for improvements to GD4 and GD6?

GD6 is clear and easy to understand. The existing requirements for GD6 provide a comprehensive framework that can be easily followed and applied. We have published a redaction policy ²that governs this.

With regards to GD4 we understand what it’s aiming to achieve. As discussed previously we believe reporting our progress against GD4 could be improved and have suggestions on how the process itself could be improved. For example, the design of the Compliance Report leads to a lot of duplication and over reporting, which we believe could be simplified. We have addressed these aspects below, as part of the *Compliance Reporting Obligation* section.

As an operator we regularly make decisions of varying levels of significance across the organisation. For the purpose of GD4 we have determined that only decisions taken at Board or Board reporting committees (where they have clear delegated Board authority) are in scope. We believe this aligns with the PSR definition of “governing body”. If the PSR has a different view we would be happy to discuss.

² http://www.newpso.uk/171213_redactionpolicy.pdf

Question 9: Do you have any comments on our suggestion of revoking GD5?

We support the PSR's recommendation that GD5 is revoked on the basis that wider corporate governance controls are now in place.

Questions 10 and 11: Compliance Reporting Obligations

We want our working relationship with the PSR to be open and transparent and centred on the basis of a “*no surprises*” culture. The PSR, as and when required, has been able to informally request information from Bacs; C&CCC and FPSL, and we would like for that culture to continue. It is our view that using Section 81 of Financial Services (Banking Reform) Act 2013 (FSBRA) Powers (s.81 Powers)³ as part of the day to day operations on a regular basis will not necessarily add value to monitoring or achieving the desired outcome in the interest of the service users. The use of s.81 Powers should remain for the purposes of non-compliance and where a compliant has been issued to the regulator.

From experience, we believe annual compliance reporting, supported by regular informal contact, derives the best outcomes and aligns itself to our processes. It is our intention from the point C&CCC transfers to the NPSO, that the NPSO will produce consolidated reporting.

As briefly mentioned above completing the Compliance Report can be challenging, in particular the section which relates to GD4 (parts 4.2 a, b, and c). It would be helpful if duplicate text boxes that cut across GD2 and GD4 could be removed. For example, GD2 section question CII and GD4 question D1. We have been engaging with the PSR to improve the reporting for GD2 on this and we are happy to continue to so.

Question 12: Do you find the existing requirements of GD1 to be clear and easy to understand? (And, if you are a participant in a FSBRA regulated payment system operator, do you also find the existing requirements easy to apply?)

The requirements of GD1 are clear and we understand what it is aiming to achieve. Bacs and FPS have complied with GD1 through maintaining an open and regular dialogue with the PSR and we would expect this to continue evolving under the NPSO. We therefore do not anticipate the need for an overly formal reporting process, although as part of our continuous improvement policy we are reviewing how we track compliance with GD1 internally going forward.

The suggested GD1 regulatory consistency between the PSR European Union (EU) responsibilities and those defined here in the United Kingdom (UK) appears to include a proposal to bring the Current Account Switching Service (CASS) within the remit of GD1. In this connection we would like to make the following observations:

- The PSR's powers under the Financial Services (Banking Reform) Act 2013 (FSBRA) are part of a package of measures aimed at safeguarding the integrity of the UK payment schemes. CASS is not a payment scheme.

³ As per Para 5.3 of the CP

- CASS is already subject to regulatory oversight by the PSR (plus regulatory interest from other bodies such as the CMA) and the justification for adding a further layer of regulation by including CASS under GD1 appears unnecessary.
- Additional regulation for CASS is not commensurate with the 'light touch' approach initially envisaged by government when the Payment Accounts Regulations 2015 were transcribed into UK law in December 2015.

We recognise the possibility that we may have misinterpreted the consultation document and would therefore appreciate clarification from the PSR on this point.

RBS Group

CP18/1 Review of PSR Directions Made in 2015

RBS response

June 2018

Review of PSR Directions made in 2015 – RBS Response

Access Directions

Question on GD2

Question 1: Do you agree with our proposed approach to GD2? If you disagree with our proposed approach, please give your reasons.

We agree with the PSR's proposed approach to GD2, i.e. to align with the Payment Services Regulations 2017 text, although noting that the PSR will consider further how it will cover the provision for operators to publicly disclose their access criteria. We agree that this needs additional input from operators.

Question on GD3

Question 2: Do you agree with our proposed approach to GD3, including in respect of the four payment card systems not covered by GD3 today? If you disagree with our proposed approach, please give your reasons.

We agree with the PSR's proposed approach to GD3, i.e. to replace it with a General Direction made under Regulation 125 of the Payment Services Regulations 2017 and note that PSR will consult on the wording of the new PSRs 2017 General Direction.

Questions on SD1

Question 3: Do you think that more needs to be done to increase awareness of the information sponsor banks are required to publish under SD1? If so, do you think the PSR should take action, including by possibly revising SD1?

Whilst we are open to suggestions on additional measures which might be taken to increase awareness of this information, we do believe that the arrangements already in place, including the industry hub, should be largely sufficient to allow prospective indirect PSPs to effectively assess their options. Rather than revising SD1, we would recommend that the PSR afford NPSO, and perhaps other industry groups representing PSPs seeking indirect access, the opportunity to consider what further steps, particularly building on the industry hub approach, might be taken to increase awareness.

Question 4: Do you think that the scope of SD1 should be widened to include additional requirements on sponsor banks (such as those set out in paragraph 3.49)?

We are keen that indirect access seekers are fully informed about the application process, including indicative timescales, and see this as part of the customer's application process. We would caution, however, against too prescriptive an approach – in practice, an application involves an informed dialogue between different types of applicant, seeking access to one or more of the payment systems, and an IAP, which would not be assisted by a requirement to publish 'deadlines' for making decisions.

Question 5: Do you have any comments on how best we ensure that SD1 addresses all the right IAPs, at the right time? In particular, please comment on whether you think SD1, which currently addresses Barclays, HSBC, Lloyds and RBS, should be amended to address new entrant IAPs or replaced with a General Direction applying to a defined class of IAPs.

We consider that, in principle, all IAPs should be subject to the same requirements, and thus would support replacement of SD1 at an appropriate time with a General Direction. Whilst this could

potentially include a threshold for new entrants, we would expect new entrants to want to be seen to be providing services on an equal footing, therefore obviating the need for such a threshold.

We note that PSR appears to favour retaining SD1 with additional named sponsor banks, which we equally see as an acceptable option.

Governance Directions

Questions on GD4 and GD6

Question 6: Do you have any comments on our suggestion of consolidating GD4 and GD6 under an over-arching principle setting out the outcomes we expect operators to deliver? In particular, please comment on what impacts, if any, you would expect such a change to have. In your answer, you may want to comment on:

- whether we should avoid being prescriptive about the mechanisms that operators might put in place, or whether we should retain the requirements of GD4 and GD6 as specific but non-exhaustive requirements that sit under the over-arching principle
- whether Principle 2, Key Consideration 7 of the CPSS-IOSCO Principles for Financial Market Infrastructures appear to be an appropriate starting point for developing an over-arching principle for GD4/GD6 purposes

We support the principle of ensuring that operators understand and take account of the needs of service-users, including engagement with them throughout the decision making process, and being transparent about how decisions have been taken. We agree that Principle 2, Key Consideration 7, would be an appropriate starting point for developing an over-arching principle.

Question 7: Do you have any comments on how well GD6 promotes the aim of increasing operators' transparency in the interests of their service users? Do you think GD6 could be revised or improved to better promote this aim?

We believe that GD6 has been helpful in increasing transparency about decision-making, and do not believe that there is a need for substantial revision. That said, the operators might wish to consider whether their minutes, after redaction to reflect commercial sensitivity etc, are consistently as transparent as possible.

Question 8: Are the existing requirements of GD4 and GD6 clear and easy to understand? (And, if you are a payment system operator, do you also find the existing requirements easy to apply?). If not, do you have any suggestions for improvements to GD4 and GD6?

We consider the existing requirements of GD4 and GD6 to be clear and easy to understand.

Question on GD5

Question 9: Do you have any comments on our suggestion of revoking GD5?

We agree that GD5 could be revoked on the basis outlined.

Compliance Reporting Obligations

Questions on Compliance Reporting

Question 10: Do you have any comments on our suggestions for compliance reporting in respect of GD2 and GD3?

We don't have specific comments on these suggestions.

Question 11: Do you have any comments on our suggestions for compliance reporting in respect of GD4?

We don't have specific comments on these suggestions.

Participants Relationships with the PSR

Questions on GD1

Question 12: Do you find the existing requirements of GD1 to be clear and easy to understand? (And, if you are a FSBRA regulated payment system operator, do you also find the existing requirements easy to apply?). If not, do you have any suggestions for improvements to GD1? As far as possible, please base your answer on your own experiences of interpreting and applying GD1 to date.

We consider the existing requirements of GD1 to be clear and easy to understand.

Question 13: Do you have any comments on our suggestion of replicating the substantive requirements of GD1 under General Directions issued under our PCIFRs and PSRs 2017 powers?

We recognise the greater complexity for PSR to achieve a balanced and equivalent approach, where underlying regulations are different.

In principle, we consider that all impacted entities should be subject to the same or equivalent requirements where regulation /legislation differs, and would therefore recognise that the PSR will wish to review further and potentially consult again on GD1.

Other Issues Relevant to this Review

Question on other areas for improvement

Question 14: Do you have any other comments on how we might improve the content, text, structure or format of one or more of General Directions 1 to 6 and Specific Direction 1, including the guidance on these Directions? Please give reasons for your suggested changes.

We don't have any further comments on General Directions 1 to 6 and Specific Direction 1.

Matters we must have regard to in this review

Question on intended benefits and anticipated costs

Question 15: If you have not covered it already in your response(s) to other consultation questions, do you have any comments on our current thinking on the intended benefits and anticipated costs of the proposed changes to our 2015 Directions?

Subject to our comments above, we support the thrust of the PSR's thinking on the intended benefits of the changes outlined. We do not believe that these changes would result in significant additional costs.

Visa Europe

Visa Europe's response to the PSR's review of Directions made in 2015 June 2018

Visa Europe (Visa) welcomes the opportunity to comment on this consultation, and the PSR's approach of reviewing these requirements on an ongoing basis.

Overall, we support an approach which recognises and appreciates the differences between payment sector participants. Visa operates in a dynamic, competitive global cards market, which is at a different stage of maturity to interbank schemes. The competitive market for card payments has produced significant investment and innovation in new services that respond to end-user needs. Visa has invested significantly in developing solutions that provide increased control and convenience to customers while also improving security.

Our mission is to enable individuals and businesses to thrive through delivering the most innovative, reliable and secure digital payment network. The end-customer is at the heart of everything we do. Our brand promise relies on providing a seamless payment experience that is trusted and valued by both merchants and customers. If anything, since the PSR's initial consultation on the directions, this has been strengthened even further through our transition from a member organisation to a public company, and through opening up our network to support the broader market. Based on this, we support the scope of application of the general directions remaining the same.

Below we provide our feedback on some specific points in the consultation:

General Directions

We consider that GD1 (Participants' relationships with the PSR) currently provides an appropriate balance between setting clear expectations and maintaining the necessary flexibility for participants to exercise their judgement. Our view is that an open, co-operative and constructive relationship between the PSR and industry participants is essential and we think this has been working well to date and do not believe there is any need to revise GD1

We note the PSR's proposal to revise certain directions, including GD3 (Direct Access), in line with PSD2, and agree with the aim of achieving consistency across regulatory requirements.

Compliance reporting

We support the intention to streamline this reporting, and would support an attestation-based approach or an approach which requires participants to respond substantively only on areas where there has been a change since the last reporting year. Where appropriate we also support a complaints led approach to monitoring compliance.

We do think it is important for there to be sufficient certainty for participants in what will be required and when. We have found the process where we are given the opportunity to comment on draft requests for information to be particularly helpful and gives us the opportunity to feed back on the substance of the data request and the time that we would realistically need in order to respond.