

The Payment Systems Regulator Ltd

Minutes

Meeting:	PSR Board	
Date of Meeting:	19 January 2017	
Venue:	25 The North Colonnade, Canary Wharf, London E14 5HS	
Present:	Andrew Bailey	Noel Gordon
	Carole Begent	John Griffith-Jones (Chair)
	Bradley Fried	Hannah Nixon
	Amelia Fletcher	Christopher Woolard
In attendance:	Set out in Annex A	

Quorum and Conflicts

The Meeting noted there was a quorum present and proceeded to business.

1 Minutes and Matters Arising

- 1.1 The minutes of the Board meeting held on 9 November 2016 were approved as a correct record of the meeting subject to a minor amendment.
- 1.2 The minutes of the Board meeting held on 8 December 2016 were approved as a correct record of the meeting.
- 1.3 The Board noted the progress in respect of the matters arising from previous meetings.

2 Board Committee Reports

- 2.1 There were no reports from Board Committees.

3 Report from the Managing Director

- 3.1 The Board received Ms Nixon's report and noted and discussed the following issues:
 - The PSR's response to the Which? Supercomplaint had generally been well-received although there were some negative responses. The Board asked that consideration be given to the process in the immediate run up to publication, so agreed that lessons should be learned for the handling of similar situations in future.
 - The CMA's recent announcement that it was considering whether undertakings offered by Mastercard and VocaLink remove the need to carry out an in-depth merger investigation and that it was undertaking a public consultation. The Board noted that the Executive was working with the CMA. The Board also considered the implications of the consultation on the PSR's work programme, particularly if the CMA's investigation were to be extended until May 2017.
 - The approach to the PSR from a number of Iranian banks seeking access to UK payment systems

- The PSR had received its first formal application to exercise its s.57 FSBRA powers to vary the terms of an access agreement. The Board noted that the application had been received from a company that had received a notice of termination of all business relationships by its indirect access provider but had requested that the notice period be significantly extended. The Board noted the concerns of each party and that the PSR was gathering information from them. It was also noted that the parties had the right of appeal to the CMA if dissatisfied with the PSR's decision.

4 Payments Strategy Forum - Milestones, risks and mitigations

- 4.1 The Board received a briefing on the key interactions and interdependencies between the work of the Payments Strategy Forum ('the Forum'), the work on Payment Systems Operator consolidation and the Infrastructure Market review. The Board noted that the Forum proposed that the new payments architecture (NPA) become operational by 2020. Therefore, as it would not be efficient to procure new suppliers for BACS and Faster Payments, the new PSO would need to be in place by the end of 2017 to run the procurement process for the NPA. The Board discussed the implications of this.
- 4.2 The extent to which existing PSOs had been consulted on the new payments architecture was discussed and the Board emphasised the need for them to be involved in the development of the NPA blueprint in order to facilitate a smoother transition to the NPA. The team agreed that this is important and indicated that steps have been made to involve the technical specialists currently working in the PSOs. The Board indicated that it was also important to take careful note of criticism of the new architecture to guard against the risk of "group think" in its design. The Board also asked the Executive to ensure that any lessons to be learned from other countries' experience of introducing new payments architecture, such as Australia, were understood.
- 4.3 The Board discussed how the PSR could ensure that overlay services were going to be genuinely competitive and whether it would be desirable to amend the Forum's terms of reference to make this need more explicit. The team agreed to look at this and also agreed to bring examples of how competing overlay services (e.g. for Request to Pay) could function in the new architecture to ensure competition.
- 4.4 The Board considered how the high level cost-benefit analysis in the strategy published in November would be developed and how the banks that control the current operators would view the costs. The Board was concerned that the banks may not prioritise the transition, which would cause delay. It would be important to explore synergies with work they are already undertaking and to ensure that they recognised that the alternative would also involve costs. It was explained that the cost of running the systems comprise the majority of the total costs for both the current and the future systems, and the industry would still need to invest in the payment systems when the current infrastructure contracts run out in 2020.

5 Annual plan and budget 2017/18

- 5.1 The Board received an update on the draft PSR Annual Plan for 2017/18 and provided comments on the structure and content. The Board felt that context could usefully be provided by a clearer articulation of an overall vision for the industry and that the proposed exploratory work should be expanded and linked to the statutory objectives. Following a general discussion, it was agreed that a near-final draft would be circulated to the Board in February for comments before approval was sought from the FCA Board at its meeting on 23 February.
- 5.2 The Board discussed the draft budget for 2017/18 and considered the key risks to achieving it.

6 Second Payment Services Directive (PSD2) - Approach to monitoring and enforcement

- 6.1 The Board noted that HM Treasury intends to transpose PSD2 into UK legislation by means of the proposed Payment Services Regulations 2017 (PSRs 2017). It is proposed that the PSR will be the responsible authority for four of the regulations in the PSRs 2017, namely regulations 61, 103, 104 and 105.
- 6.2 The Board noted that the PSR's responsibilities under PSD2 related mainly to access to payment systems, and that the PSR already had to have regard to the access provisions in FSBRA. The PSR was therefore aligning the application of the FSBRA provisions with the requirements of PSD2 as far as possible to facilitate a smooth transition. The Board recognised that the PSR would need to articulate clearly the differences between its powers under PSD2 and under FSBRA.
- 6.3 The Board also agreed that it would be desirable for the PSR to issue guidance on its approach to monitoring compliance with those regulations within the PSRs 2017 for which it will be the responsible authority. The Board agreed with the Executive's recommendations that its approach to compliance with regulations 61, 104 and 105 should be primarily led by complaints received from users, but was of the view that the approach for regulation 104 should be supported by a requirement for firms to provide information on their approach to these issues at the outset of the regulation coming into effect. This would serve as a baseline against which we could assess any complaints. The Board agreed with the proposals the operators should be required to produce annual compliance reports in respect of regulation 103.
- 6.4 The Board requested further detail of the proposed approach and emphasised the need for the approach document issued by the PSR to be clear where reliance will be placed on self-attestation or inspection to monitor compliance.

7 Payment System Resilience

- 7.1 The Board discussed the role of the PSR in respect of the resilience of the payment systems. It noted that in view of the roles of the Bank of England and the FCA, the PSR would not expect to take the lead in the event of any incident, but would expect to be informed and involved in any discussions regarding regulatory action. The Board noted that roles and responsibilities had been discussed with the Bank and the FCA both in general and in the particular case of cyber-resilience.
- 7.2 The Board discussed the resilience of Payment Service Providers more generally. It noted that this was primarily a matter for the FCA and suggested that the FCA Board be requested to consider the supervisory approach on resilience for new or non-bank Payment Service Providers.

8 Papers for noting

- 8.1 The Board noted the PSR Executive Committee minutes.
- 8.2 The Board noted the forward agenda.

There being no further business, the meeting closed.

Simon Pearce
Company Secretary

Annex A: Attendees

Marion Ameresekere	Assistant Company Secretary
Simon Pearce	Company Secretary
Louise Buckley	Head of Department, Communications and Operations
Paul Smith	Head of Department, Regulatory Strategy and Policy
David Godfrey	Director, Finance (item 5)
Dora Guzeleva	Manager, PSR (items 4 & 5)
Jana Mackintosh	Manager, PSR (item 6 & 7)
Toby Parker	Manager, PSR (items 4.5)
Kyle Snookes	Manager, Management Accounting (item 5)
Grahame Tinsley	Manager, PSR (item 5)