Minutes

Minutes of the meeting of the

PAYMENT SERVICES AND E-MONEY STAKEHOLDER LIAISON GROUP

Held on 26 March 2012, 15:30 – 16:30

At Committee room C, FSA, 25TNC

Present: John Burns, FSA (Chair)

Jean Cooper, FSA Kate Edwards, FSA

Brian Garcia, HM Treasury

Mary Pothos, Visa Europe

Paul Anning, PIF

Simon Newstead, UK Payments Council PSD Working Group (RBS)

Jacqui Tribe, UK Cards Association Ruth Wandhofer, Payment Systems Market Expert Group/European Payments Council (Citibank)

Apologies: Leon Isaacs, IAMTN

Veronica Studsgaard, IAMTN

Siobhan Moore, UK GCVA

Elizabeth Fraser, Payments Council Rhiannon Williams, Payments

Council

Walfgang Mascheck, Western Union

Robert Courtneidge, PIF Jamie Cooke, AFEPC

Alison Donnelly, FSA (minutes)

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1. **Welcome**

John Burns welcomed everyone to the meeting and asked attendees to introduce themselves.

2. Payment Services Directive (PSD) Review

Brian Garcia said that he had asked for this meeting so that he could inform the Stakeholder Liaison Group of the process for the Commission's review and to begin the consultation on the key issues. In his view it would not be helpful to merely tinker and tweak the PSD as this would add more complexity and cost. It would be better to take a forward-looking approach, and aim to achieve a unified regulatory structure that is technologically neutral and treats every payment service provider equally, that promotes competition and meets the needs of consumers. Brian noted the key issues as being the following.

- The second Electronic Money Directive (2EMD) should be included in the review as the boundaries between e-money and payment services are blurred. The current definition of e-money is out of date and distorting the market. There should be a single regime and authorisation process with different provisions as necessary. There should be alignment with the Money Laundering Directive and the Consumer Credit Directive.
- The treatment of small firms: should the scope of the waiver be tightened?
- Should new types of services be brought into scope, for example, overlay payment services and new types of billing services?
- Can the capital requirements be simplified?
- Should the safeguarding requirement apply to all payment institutions (PIs), not just hybrids?
- Because of the maximum harmonisation nature of PSD and 2EMD Member States cannot impose requirements on providers of activities that are out of scope but this leaves a vast consumer protection gap.
- Limited network exemption the disparity between the regulated and unregulated population is too great. Could a lighter touch regime be introduced for providers of those activities that are currently exempt?

There was a discussion of the industry's assessment of the cost of implementing the PSD and other issues of concern or for noting, as follows.

- Whether one-leg out transactions should come within the scope of the PSD.
- Potential for a detailed directive to become dated as technology develops. Support for setting out principles in the directive instead.
- There should be an option for e-money issuers to agree with corporate customers that the 2EMD conduct of business requirements do not apply (such an option is available in the PSD).
- Credit institution-issued e-money is neither covered by a guarantee scheme nor safeguarded.
- Passporting arrangements would be helped by clarifying the distinction between agents and distributors. A single public register of all e-money issuers and payment service providers would be more

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consumer-friendly. This would require a consistent format for the information and there is also scope for better co-operation between the supervisors across the EEA. A memorandum of understanding may be helpful; or perhaps the involvement of the EBA.

- Whether the digital exemption is now out-of-date.
- The pre-authorisation of transactions is not addressed.
- Merchant acquiring is not properly addressed.

Brian Garcia to circulate a table identifying the issues. All members to provide comments by mid April.

BG All

3. Commission Green paper: Towards an integrated European market for card, internet and mobile payments

Brian Garcia said that the Commission is treating this as a separate workstream running parallel to the PSD review. It is pro-competition, innovation and integration but also suggests price controls and standardisation. It does not seem to take a strategic overview. It should aim to be technologically neutral and to simplify the architecture but it covers card standards, mobile standards, interoperability, security improvements and SEPA governance.

Concerns were raised regarding the following.

- The issue of surcharging.
- The anti-money laundering rules becoming an obstacle to innovation especially in relation to anonymous products.
- Clarity with regards to foreign exchange transactions because the FOS is taking FX complaints. It was observed this may be a UK issue because FX is regulated elsewhere in the EEA.
- Whether there are problems related to accessing payment systems and whether Article 28 of the PSD creates an unlevel playing field.

4. **AOB**

There was a discussion of whether the Commission will favour a directive or regulation. It was noted that there has been a tendency towards regulations but it is difficult to accommodate principles and the current flexibility in PSD (the derogations) within a regulation.