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## Minutes

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Minutes of the meeting of the  
PAYMENT SERVICES STAKEHOLDER LIAISON GROUP  
Held on 14 October 2016, 09.00 – 11.00  
At Committee Room 02, FCA, 25 The North Colonnade, London

**Present:**

Andrew Laidlaw, FCA (Chair)	Tim Minall, UK Merchant Acquirers Forum
Nilixa Devlukia, FCA	Michel Vaugiac, European Payment Institutions Federation
Jack Wilson, FCA	Dave Tonge, FDATA
Vicky Parr, FCA	Giedre Mitkute, Pre-Paid International Forum
Tim Holbrow, FCA	Andrew Cregan, British Retail Consortium
Alex Walsh, FCA	Elizabeth Frazer, Payments UK
Laurence Morton, FCA	Thaer Sabri, Electronic Money Association
Benjamin Woodside, Payment Systems Regulator	
Elena Curzio, Payment Systems Regulator	
Measha Patel, HM Treasury	
Mike Southgate, Association of Foreign Exchange and Payment Companies	

  

**Apologies:**

Graeme McLean, FCA	Ruth Wandhöfer, European Banking Federation Payments Regulatory Expert Group
Iris Kapelouzou, British Bankers Association (BBA)	Dominic Thorncroft, AUKPI
Andrew Hopkins, Building Societies Association	Ali Imanat, Financial Fraud Action UK
Faith Reynolds, FCA Consumer Panel & Consumer Network	

**Minute No.****Actions****1****Agenda**

Attendees agreed to the proposed agenda for the meeting.

**2****Article 36**

HM Treasury (HMT) gave an update, stating that the consultation document on the implementing regulations for PSD2 was being finalised, and that feedback to this consultation would be welcome. HMT clarified that the Article 36 provision will not mandate that credit institutions must provide payment services providers (PSPs) with access to payment account services (PAS). HMT expect FCA and Payment Systems Regulator (PSR) to be co-competent in respect of Article 36, with the FCA the lead authority on notifications under this provision.

The FCA stated that HMT's interpretation of Article 36 was that credit institutions would need to make available the criteria for assessing applications for PAS to PSPs requesting such access.

The FCA and PSR will monitor compliance under Article 36. Notifications will need to be provided to the FCA when a payment institution has refused or withdrawn access to payment account services, with reasons provided.

The FCA invited general comments on Article 36 and the issue of access to PAS for PSPs:

- Attendees discussed the basis on which applications for PAS were assessed. It was suggested that credit institutions would make decisions regarding applications for accounts based on commercial grounds, specifically on credit risk.
- It was noted that credit institutions typically require that PSPs have a minimum level of turnover as part of their criteria. The group queried whether credit institutions would be able to design their application criteria in such a manner as to turn away a large proportion of PSPs.
- It was stated that the minimum turnover requirement set by credit institutions creates a concentration risk as PSPs are less able to open accounts with multiple providers.
- It was suggested that credit institutions sometimes undertake extensive review of PSPs' processes as part of the assessment process, and in effect PSPs are required to follow the policies of the credit institutions.
- The group suggested that it would be helpful to consider whether the criteria used by credit institutions

were reasonable.

- It was queried whether a lack of acknowledgement of an application, or a lack of progression of one, would be considered a rejection.

The FCA requested input on what should be considered an 'application' for the purposes of Article 36:

- One suggestion was that an application should be considered as having been received when the due diligence period had begun. Alternatively, it was suggested that any request for an account should be considered an application.
- It was suggested that complaints to the FCA would shed light on those being refused at the 'expression of interest stage'
- Attendees discussed how PSPs could obtain application criteria from credit institutions. It was noted that some PSPs struggled to find the correct point of contact at credit institutions to discuss applications with.
- The group questioned whether PSPs would find the criteria to be of use. There was also discussion around how detailed the criteria would need to be.

Attendees were invited by the FCA to give views on which PAS are critical to providing payment services. Suggestions included:

- Safeguarding account – due to the FCA requirement to hold such an account
- Credit account and FX account
- Access to payment systems
- Access to transaction information
- Business accounts

The FCA confirmed that guidance on Article 36 would be included in the updated Approach Document.

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### **EBA guidelines on PII**

The FCA clarified that comments on the EBA guidelines should be sent directly to the EBA, but that the FCA was interested in views on the guidelines. It was noted that the PII requirements would only apply to the payment initiation or account information service, part of the business, and would not apply to credit institutions.

The group suggested that there was a risk that the required PII be set at a level that insurers consider uninsurable.

Attendees noted that the PII requirements were not limited to

direct losses. The group suggested this meant PII would potentially be needed to cover consequential losses, which might be significant.

One Attendee was looking to model different scenarios to determine the level of PII cover.

## **7 AIS/PIS 'sensitive payments data'**

The FCA invited views on what would be classed as sensitive payments data:

- Attendees gave examples of potential sensitive payments data, including authentication credentials.
- The group suggested that masked and truncated information should not be considered sensitive payments data.
- It was suggested that unless 'sensitive payments data' was limited to credentials, no transaction data would be visible via AIS.

## **8 AOB/date of next meeting**

The next SLG will take place in December. The FCA also considered a further meeting with Credit Institution and PSP representatives to discuss Article 36 would be helpful.

It was suggested that the definition of online payment account access would be a useful topic for a future meeting.

It was queried whether there was a link between PSD2 work and wider API work. The FCA noted that it had made clear in public that the two should not be taken forward separately; there are benefits (to consumers and to firms) if the access required through PSD2 is made available via a common API for all accounts.

Annex	Terms of reference
	<p data-bbox="459 248 639 282"><b>Participants</b></p> <p data-bbox="459 322 520 356">FCA:</p> <p data-bbox="459 396 1062 651">           Chair – Graeme McLean            Alternate Chair – Andrew Laidlaw            Banking &amp; Payments Policy – Nilixa Devlukia            General Counsel’s Division – Jody Whitehorn            Ops/Business Planning – Daniel Buckland            Supervision– Rezwan Malik            Consumer Redress – Samuel Condry         </p> <p data-bbox="459 703 580 736">External:</p> <ul data-bbox="555 752 1458 1379" style="list-style-type: none"> <li>• HM Treasury</li> <li>• Association of Foreign Exchange and Payment companies</li> <li>• Association of UK Payment Institutions</li> <li>• Electronic Money Association</li> <li>• Mobile Broadband Group</li> <li>• Payments UK</li> <li>• GSMA</li> <li>• UK Cards Association</li> <li>• Building Societies Association</li> <li>• British Bankers Association</li> <li>• European banking Industry Payments Regulatory Expert Group</li> <li>• Financial Data and Technology Association (FDATA)</li> <li>• British Retail Consortium</li> <li>• FCA Consumer Panel</li> <li>• UK Merchant Acquirers Forum</li> <li>• European Payment Institutions Federation</li> <li>• Financial Fraud Action UK</li> </ul> <p data-bbox="459 1400 517 1433"><b>Aim</b></p> <p data-bbox="459 1453 1458 1599">The aim of the SLG is to ensure productive liaison between the FCA (as competent authority) and the payment services sector in order to support the successful implementation of the revised Payment Services Directive by 13 January 2018.</p> <p data-bbox="459 1639 724 1673"><b>Role and purpose</b></p> <p data-bbox="459 1680 1437 1783">The SLG is comprised of relevant trade associations and representatives of other groups affected by or interested in the implementation of PSD2 (such as consumers and business customers).</p> <p data-bbox="459 1823 1458 1926">The SLG is intended as a forum to enable stakeholders to facilitate the FCA’s engagement with the payments industry as it develops its approach to implementation of PSD2.</p> <p data-bbox="459 1937 1449 2004">The SLG will provide the FCA with information and advice about payment services for policy and operational planning purposes.</p>

The SLG will provide input into determining how stakeholders are best supported to comply with the PSD2 regime. The SLG will assist in the development of the FCA's revised Approach Document, perimeter guidance and any related Handbook changes.

The FCA will keep the SLG updated on progress of implementation. The SLG will aim to ensure that payment services firms are aware of PSD2, understand its requirements and the FCA's proposed regulatory approach and are adequately prepared for its implementation.

#### **Scope of activity**

The SLG will inform the FCA's decision making and will assist in ensuring that PSPs and other affected payments firms are aware of the requirements of PSD2.

The scope of the SLG will be limited to issues relevant to the FCA's role as competent authority.

#### **Membership**

The SLG will be made up of stakeholders representing the diversity of interests that are affected by PSD2, including the payments industry and customers.

Members may nominate alternates for any meeting or request that an additional colleague attend with the prior approval of the Chair.

The FCA may consider new applications for membership of the SLG. Such applications should be duly motivated. The FCA reserves the right to refuse such applications.

#### **Meetings and operating**

The SLG will normally meet every six weeks. Scheduled meetings can be brought forward or cancelled if necessary.

The SLG may also review by written procedure issues that do not warrant a full meeting.

The meetings will be chaired by Graeme Mclean (Head of Banking, Lending & Distribution Policy, FCA) with Andrew Laidlaw as alternate (Manager Banking and Payments).

FCA staff will act as secretariat

FCA will endeavour to issue agendas and any meeting papers at least 5 working days in advance of the meeting. The agenda will also be published on our website.

Draft minutes will be circulated by the secretariat for agreement of the SLG within 5 working days of the meeting. They will subsequently be published on the FCA website.