



Payments Services

Regulatory update

July 2017

Hello everyone,

The UK payments landscape is currently being re-defined, so I thought it would be useful to share with you some of the latest developments in the market. The breadth and pace of change is unprecedented; driven by technological advancement, innovative new providers and ever evolving customer needs, supported by legal and regulatory intervention.

Alongside the changes being brought about by PSD II, the evolution of Open Banking brings further pressures. Banks and building societies, amongst other payment service providers (PSPs), are having to reconsider and redefine their strategies as well as dealing with unprecedented levels of change in other areas.

The future shape of the industry is now becoming clearer, with HMT having just published the final Payment Services Regulations (PSRs) 2017, ready to implement the requirements of PSD II in the UK. Further guidance and consultations have been issued and the final rules are imminent, with the first and most significant deadline – the implementation of PSD II and Open Banking – just around the corner on 13 January next year.

So, the clock is ticking down at a rapidly increasing pace. New players, with innovative new services are poised to enter the market and customers are ready for a more convenient, seamless and tailored service.

The payments world is evolving. The question is – 'Are you ready not just to comply but to compete and innovate?'

This short summary provides an overview of the more recent regulatory developments and considers a key question – 'What is a payment account?'

If you have any questions or would like to discuss anything further, please do not hesitate to contact me.

Best wishes

Michelle



What Accounts are Captured by PSD II

In recent months I, along with other colleagues, have had some very interesting discussions with some firms regarding the types of accounts that are captured by PSD II, i.e. the definition of a payment account. Some appear to be under the mis-understanding that payment accounts are quite simply current accounts. Surprisingly, this is not the case.

The FCA has usefully expanded the basic definition of a payment account in its guidance. When establishing whether or not an account is a payment account, the FCA suggest it is appropriate to focus on its **underlying purpose**, by considering factors such as:

- The purpose for which the account is designated;
- The functionality of the account;
- Any restrictive features;
- A limited ability to place and withdraw funds without additional intervention or agreement from the PSP; and
- The extent to which customers use an account's payment service functionality in practice.

The FCA conclude by stating that payment accounts can include not just current accounts, but also e-money accounts, flexible savings accounts, credit card accounts, current account mortgages (under **certain** circumstances) and (according to PSD II), certain cash ISAs.

So please don't be fooled, payment accounts aren't just current accounts!

More seriously though, classifying accounts as non-payment accounts obviously relieves firms of significant regulatory responsibility. But if they've got it wrong, there could be significant consequences for acting in breach of the PSRs.

So the simple question to ask yourself is 'Are you confident in your classification of payment and non-payment accounts?'



HMT Developments

Final Payment Service Regulations (PSRs) 2017 (PSD II)

Probably the most significant milestone so far is that, on 19 July 2017, HMT published the final PSRs 2017. These regulations are designed to deliver compliance with PSD II. In brief, PSD II introduces changes in four key areas:

- **Market efficiency and integration:** Extending the scope of regulation to capture new services and providers, whilst tightening the gap on firms allowed to remain outside the scope of the regulations.
- **Consumer protection:** Reducing customer liability for unauthorised transactions, banning surcharging on retail payment instruments and enhancing the complaint handling requirements.
- **Competition and choice:** Bringing providers of account information services (AIS) and payment initiation services (PIS) under the regulations and requiring existing PSPs to cooperate fully with them.
- **Security:** Improving security policies, risk management, authentication procedures and reporting requirements when things go wrong.

From a customer perspective, these changes mean greater levels of protection and choice, with new innovative services evolving over time. Existing providers will need to cooperate with new providers, allowing access to their customers' online payment accounts, and at the same time, compete on a level playing field.

Critically though, the revised regulations mean that existing providers may have to re-think their strategies and invest heavily in technology if they are to compete in the digital world. All that, in addition to simply ensuring compliance!

So here's another question to ask yourself – 'Are you ready to comply and compete?'



EBA Developments

Authorisations

The EBA has recently published its final guidance on the information to be provided to the FCA for the authorisation (and in some cases re-authorisation) of Payment Institutions (PIs) and Electronic Money Institutions (EMIs) and for the registration of the new Account Information Service Providers (AISPs): [Guidelines on authorisation and registration under PSD2](#). The EBA guidelines were rapidly followed by the FCAs publication of CP17/22: <https://www.fca.org.uk/publication/consultation/cp17-22.pdf>.

The effect of the EBA guidelines and FCA consultation is that: firms not currently authorised as PIs will have to apply for authorisation or registration, depending on their activities; some already authorised or registered will have to re-apply for authorisation or registration under the new regime; and others wishing to change their permissions or apply to remove a requirement, will have to submit the necessary application to the FCA. Registration requirements are less onerous than full authorisation requirements, but still require firms to provide a significant amount of information to the regulator.

Neither the authorisation or registration information requirements are simple, straightforward exercises. They are time-consuming, require a significant amount of effort, consideration, organisation and strategic thinking.

With this in mind, it's worth challenging yourself and asking 'How ready are we to make an application for (re)authorisation/(re)registration under the new regime?'

Regulatory Technical Standards (RTS) on Strong Customer Authentication (SCA)

As part of the improved security requirements under PSD II, the EBA was tasked with developing the RTS for SCA. The RTS established the requirements for SCA between ASPSPs, PISPs, AISPs, payers, payees and other PSPs. In May 2017, the commission informed the EBA that it intended to partially endorse the RTS with amendments.

The EBA responded to the Commission's proposed amendments on 29 June 2017. Most critically, the [EBA has rejected the European commission's proposed amendment](#) on the RTS to allow screen scraping, effectively banning screen scraping in favour of Application Programme Interfaces (API's), once RTS rules come into play.

That said, this may not be the end of the matter and further debate is expected before the RTS are finalised.



Bank of England

PSP Access to the Bank's RTGS System

On 19 July, the Bank of England announced that it would allow non-bank PSPs to apply for a [settlement account in its RTGS system](#). For the first time, this will allow these firms to apply for direct access to the UK's sterling payment systems that settle in sterling central bank money, including Faster Payments, Bacs, CHAPS, LINK, Visa, and, once live, the new digital cheque imaging system.

These changes will enable non-bank PSPs to compete on a more level playing field with banks. In turn, reduced dependence on bank competitors for access to payment systems will allow non-bank PSPs to offer a wider range of payment services, helping to increase competition and innovation in the provision of payment services.



Other Payment Services News

Payment Systems Operator Consolidation

The CMA has recently approved the consolidation of the operators of Bacs, the Cheque and Credit Clearing Company and Faster Payments Scheme into a New Payments Systems Operator.

The PSR and the Bank of England have already agreed a delivery plan. The unified entity will become responsible for the next stage of the development of the New Payments Architecture (NPA), an industry-led initiative that aims to increase competition and resilience as well as enhance innovation across the payments and banking industry.

Open Banking API Standards

As part of the Open Banking initiative, mandated by the CMA following its Retail Banking report last summer, nine UK banks have been working to deliver an Open Banking Application Programming Interface (API) standard, which is required to comply with PSD II and be delivered by January 2018 when PSD II takes effect. This API standard is expected to provide the framework for how new payment service providers access data (and initiate payments) and is expected to provide best practice regarding user consent and authentication in the UK.

The official Open Banking Dashboard provides a list of all industry available API end points with real-time information on availability and performance for each of the participating banks: [Official Open Banking API standard released](#) and [API Dashboard](#). They've also released the official standard [API standard V1.0](#) publically.

PSR Updates

The PSR has very recently published its [Annual Report for 2016/17](#). The report covers its activity during that period, and comments on how it has met the aims and priorities set out in its 2016/17 Annual Plan and policy work programme. The supporting [factsheet](#) provides a more detailed summary of the PSRs work.

The PSR has also published [the findings](#) of a survey conducted by independent researchers BritainThinks. This survey gathered feedback on the PSR from over 100 stakeholders across the payments sector. The PSR intends to use this insight as it continues to work with its stakeholders to improve payment systems for all users and sections of the industry.

In June, the PSR also published the findings from its market review of the payments infrastructure. Following its review the PSR is [requiring the industry to implement two remedies](#) to increase competition:

1. Competitive procurement of future central infrastructure contracts for Bacs, FPS and LINK to ensure fair, open and transparent procurement.
2. The adoption of a common international messaging standard (ISO 20022) for Bacs and FPS.

Regards



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