

Payment Systems Regulator Panel Annual Report 2017-18

Chairman's Foreword

These are exciting and challenging times for the payments sector and its participants. Being interesting is not always a comfortable place to be – especially in the light of the unknowns created by changing technology, changing consumer behaviour and a fast-changing external policy environment. But it has been a fascinating period for the Panel, and I have been honoured to serve as its Chairman for the last three years.

Over this period, I think we have seen a steady enhancement in our effective working relationship with the staff and the Board, to the point where we are able to make a useful input at the early stages of key projects initiated by staff, and where we often add agenda items of our own, drawing on the insights and experiences of the Panel's wide-ranging membership. Key areas we have raised include the cards market, the problems faced by small business users of payment services, the impact of Brexit on payment service providers and the need for a clear vision for the next 10-20 years of how the payments landscape will develop.

We have also seen the PSR mature as a regulator, as it moves from the challenges of policy development to the often complex and unpredictable process of implementation. The staff and Panel are working together on an increasingly broad front, both through full Panel meetings and through less formal discussions at workshops and with individual members of the Panel who have particular expertise to offer.

We have been particularly pleased with the progress the PSR has nurtured through the Payments Strategy Forum and its key recommendations of establishing the consolidated New Payment Systems Operator and the New Payments Architecture, that promises to enable a wide range of information rich, user friendly services that promise to make the UK a world leader in this area.

But it is also our job to maintain a critical focus on key areas for the future, and there are plenty of major issues in the pipeline. We will continue to engage on the PSR's Directions Review, which shapes the regulator's interface with payments industry participants and the requirements for user and consumer representation in the governance of payment systems. We will follow very closely the PSR's work on Big Data in the payments sector, and the risks and opportunities it provides. And we will follow through on the concerns we have raised regarding those in danger of being left behind, at a time of major change – users and consumers who find access to payment systems more difficult, for example as bank branches close, and those who are vulnerable for example because of their limited familiarity with technology or lack of English.

At the end of 2017, I was fortunate enough to have been reappointed by the Treasury to serve a second 3-year term, to November 2020. I greatly look forward to the opportunity to deal with a range of serious and important issues. But my role would be impossible without the support of my fellow Panel members. I have been very pleased to welcome those who have joined the Panel during the year: Cate Kemp, Ahmed Badr, Andrea Dunlop, Paul Thomalla, Andrew Hewitt and Jana Mackintosh. My congratulations also to those who were reappointed during the year for a further term: - Pamela Meadows, Mike Agate, Paul Rodgers, Sian Williams, Brendan Peilow, Mark Barnett, John Howells, Craig Tillotson. And my thanks go to Robert White, Rebecca Clements, Carlos Sanchez, Chris Dunne, Sreeram Yegappan who retired from the Panel during the year.

I would also like to pay tribute to Paul Smith, the PSR's Director of Policy, who left the organisation just after the end of 2017-18. He was a key supporter of the Panel and played a critically important role in helping to develop its effectiveness. We welcome his acting replacement, Matthew Cherry, and look forward to working with him.

Stephen Locke
Chairman, Payment Systems Regulator Panel

Introduction

The PSR Panel is established by statute as an independent body to the PSR. Its role is to contribute towards the effective development of the PSR's strategy and policy, in particular by providing early input to PSR staff on the regulator's work, and by offering advice to the PSR Board.

The Panel's membership is drawn from senior experts across the payments industry and its consumers and includes payment systems operators, banks, technology providers, and a range of service users, including those representing individual consumers, large and small corporate customers, and the Government as a user of payment services.

The Panel has four main meetings a year, which are supported by a number of workshops. The main meetings tend to focus on issues with a strategic cross-sectoral impact, and each meeting is followed by a report providing advice and feedback directly to the PSR Board. Workshops tend to be more informal and provide an opportunity for Panel members to work with PSR staff in exploring evidence and ideas in more detail than a formal Panel meeting would allow.

The Panel's agendas are a mix of items arising from existing PSR business and items proposed by Panel members. Our overall aim is to bring a perspective to the PSR's work on these topics that is based clearly on the experiences and concerns of all categories of users and providers across the payments landscape. Key themes that have arisen under this head include the need for the PSO consolidation process to run smoothly and retain as much expertise, experience and organisational memory as possible in the merger that will create the NPSO; the need for the PSR to strengthen its understanding of the Brexit uncertainties and possible agenda faced by payments industry participants, in order to ensure that the payments industry isn't left behind and concerns are appropriately voiced; and the various risks arising from cybercrime for consumers, users and providers of payments service providers, as well as the need to future-proof future payment systems as far as possible.

Engagement with the PSR Board and Executive

In parallel with our policy agenda, we have continued to build on the Panel's relationship with the PSR Board, staff and Executive Committee. This year we have welcomed Board members and senior PSR staff to join Panel meetings as guests to observe and participate in meetings to better understand how the Panel works and see first-hand the issues we have been tackling and how we develop our advice to the PSR Board.

In September 2017, the Panel took up an invitation to submit its views directly to the PSR Board on the issues that could or should influence the payments agenda over the next few years. The aim was to provide the Board with a broadly-based insight into risks and opportunities faced by the sector, arising both from factors within the PSR's remit and those external to it, but likely to have a bearing on the regulator's work.

This initiative, in addition to other discussions with Hannah Nixon and the PSR, allowed the Panel to provide input into the direction of the PSR's work programme and strategy. An especially significant change, resulting both from our input and other influences, has been a shift of emphasis in the PSR's work from policy development to implementation, as it follows through on a number of projects started after the organisation's establishment in 2015.

On a working level, one priority for the Panel has been to ensure that we pick up key issues early enough to have a real impact on the PSR's thinking. We have therefore welcomed the increasing tendency of the PSR to engage in Panel discussions at a strategic and early stage of major projects. Meanwhile, when staff attend our meetings, we continue to receive regular feedback on the quality and usefulness of our input, to ensure we are providing appropriate level of challenge and advice. We also held an engagement session open to all PSR staff, to explain our role and to discuss how we seek to add value to the PSR's policy thinking and we welcomed more strategic and early-stage discussions on a number of projects throughout the year.

Priority Issues for the Panel

In the Panel's view, the PSR has made a successful start to its job of regulating the payments sector since its inception in 2015. Progress has been especially welcome in the three areas of improving access for new payment services providers to the core systems; in removing conflicts inherent in the ownership of key infrastructure; and in getting all interested parties to work together through the Payments Strategy Forum and its follow up. However, as the PSR's role continues to develop in the fast-moving payments landscape, we have identified a number of risks and concerns, and continue to work with the PSR to support its evolution and ensure that its policy development effectively takes these on board.

Setting a context and vision for the payments industry

We have highlighted to the PSR the opportunity, and demand, for it to set out a clear statement of the context in which it expects to operate over the next 10-20 years – including changing consumer needs and priorities as well as changes in technology – and of the key uncertainties they have identified. Forecasting is never easy, especially in the current environment, but many payments initiatives can take years to develop and implement, and require resourcing and organisational priorities in all those involved in the market. Any approach that is developed clearly needs to be enabling and flexible – but the right kind of framework could help focus the priorities of the sector as a whole and would inform decision-makers, both within and outside the regulator, how to handle some of the difficult trade-offs involved.

We are pleased that, in response to our concern, the PSR proposes giving more focus to horizon-scanning in the year ahead and the Panel will continue to provide input on the risks, opportunities and impact of regulatory, cultural and political changes on the payments sector. The PSR is a world-leading regulator and a clear and forward-looking vision would help it further establish its relationship with other key participants in the public policy landscape, both in the UK and overseas, as well as provide direction for the industry to build upon.

Pace and extent of change

Both the Panel and the PSR have been alive to the ever-increasing pace of change in the payments landscape, including most recently from the UK's prospective withdrawal from the EU, the Second Payment Services Directive (PSD2), the introduction of the New Payments Systems Operator (NPSO) and the development and implementation of the New Payments Architecture (NPA). This ongoing change has formed a significant part of the regulators and firms' strategy. However, payments regulation as such is not the only influence on consumers and payments industry participants. Industry and payments users have also had to handle a wide range of other initiatives including the General Data Protection Regulation and ring fencing of banks' activities. The ability of those involved to adapt to the key changes they face risks being underplayed especially in environments where expertise as well as financial resources may be limited.

We have engaged with the regulator to explore these dynamics and improve understanding of the impact these changes can have on various sectors in the industry. We have emphasised the importance to the PSR that it continues to have this at the forefront of its planning and decision-making to ensure resilience and confidence in payment systems remains. Key to this will be maintaining genuinely effective consultation with all stakeholder groups to understand where the key detriments could lie which the PSR has been actively engaging with stakeholders on.

Cards

The introduction of the Interchange Fee Regulation (IFR) has been a vastly significant regulatory change for card payments, especially given the impact of other changes in the market arising from PSD2. We have highlighted the need for the PSR to fully map and understand the overall market impact of these changes, whether positive or negative. There is a range of views on this issue

within the Panel, but concerns are very strongly felt amongst some of the members, and we have made strong representations at various stages during the year, including two workshops with staff. We have submitted these concerns to the PSR Board and Executive for further consideration.

We have highlighted a number of consequences and concerns that have affected firms, users and consumers including the increase in costs under IFR for higher value transactions, the complex issue of scheme and acquirer fees for merchants and retailers, the impact of the surcharging ban on smaller firms, public agencies and not-for-profit organisations as well as consumers, and merchants' ability and willingness to switch provider or shop around either through a lack of negotiating power for smaller firms or because the cost of doing so is too high.

One issue these concerns have raised has been the limitation of the PSR's current remit in relation to cards. We have therefore focused in our engagement with the regulator on areas where we think there is more it can do to address some of the detriments arising, especially where competition in the card market is not functioning as well as it should. But this topic also highlights the importance of the PSR working effectively with other regulators, including, most obviously, the FCA and Bank of England but also bodies such as the Information Commissioner's Office and the Competition and Markets Authority.

Needs of smaller businesses

We have been working with the PSR to identify and develop a deeper understanding of the needs of smaller businesses. After our initial discussions, we have identified what we believe are the most significant challenges for smaller business users and where the PSR might want to focus its attention.

One of the biggest challenges for many smaller firms is the cost of doing business and their ability to compete with bigger firms – both in a business-to-business relationship and as a customer-facing competitor. Alongside this, challenges include the balance of power in negotiating with providers that can force them into using payment methods which are not always the most effective for their business need; and the lack of skill, time and resources to manage various payments types, to keep up to date with technology, to upgrade equipment and to obtain quicker and more competitive offers for payment services.

We have also highlighted in our representations that small firms are themselves very diverse. Many are micro-businesses and sole traders, focused closely on the skills required to serve their own sector of business, and with very limited operational capacity to deal with areas beyond the core activity.

One clear set of detriments arising for some small businesses is limited understanding of the market and how to get the best deal from payment service providers. The PSR is ideally placed to have a significant role in providing or acting as a catalyst for education for smaller businesses, making the fullest possible use of its position as an impartial and central authority. Ultimately the right kind of initiative could do a lot to support an effective and competitive environment for all businesses which is key to the PSR's objectives. This work will continue throughout the year to further develop these ideas and to support the PSR in embedding this thinking in its policy and decision making.

Other Issues the Panel has discussed in the past year

New Payments Systems Operator (NPSO)

We have engaged regularly on the plans for consolidation of payment systems operators through to the delivery of the NPSO, focusing throughout on the PSR's role in regulating the NPSO. We welcomed the PSR's focus on the need to ensure retention of the vast amount of expertise within the previous system operators, which directly impacts on the success of the NPSO. Although the timetable was and remains ambitious we have so far been impressed by the continued momentum and dedication of the PSR and NPSO to make the new arrangements work.

There has been a wide recognition across the payments industry that it was in all parties' interest to make a success of the NPSO and we have been supportive of the PSR's approach in regulating the NPSO. We have also welcomed the PSR's transparency in setting out its expectations of the NPSO at an early stage and of its continued engagement with other regulators, particularly the Bank of England, to ensure messaging around the priorities and direction of the NPSO continues to be consistent and balanced.

The focus of our discussions in the latter part of 2017-18 has shifted, to focus more on the implementation of the NPA. There are really exciting implications for all payment systems users arising from the NPA, and we look forward to engaging further as thinking develops. But we have also highlighted the importance of the business as usual work continuing despite this significant change that the NPSO has been tasked with implementing.

PSR Directions review

The Panel has had a number of fruitful and detailed discussions on its review of the existing Directions, which cover areas such as the relationship between the PSR and payments industry participants, reporting requirements and the mechanisms for service user representation in the governance of payment system operators. This review is both a very complex and significant issue for the PSR and we strongly support its action in undertaking this review. We have provided our input both on how the PSR might want to frame the questions in its consultation to get the most useful responses, and how we considered the Directions could be amended to better reflect the current payments landscape – which in our view require a mix of clarity in relation to desired outcomes, and flexibility in how these should be achieved.

We are looking forward to continuing this discussion next year and seeing the outcome of the public consultation and engaging with the PSR on the development of the emerging options.

Which? super complaint and APP Scams

This has continued to be an important topic for the PSR and the payments industry as a whole. We have considered throughout that the Which? Super-complaint has proved a catalyst for a very necessary rethink about consumer protection when authorized push payments end up in the wrong place. We thought the PSR's proposal for a contingent reimbursement model (where consumers would be eligible for reimbursement if it was clear that they had acted prudently) was a positive development and considered it would provide an incentive for banks to find a solution to the ever-evolving scam problem. We did however express doubt about early proposals to entrust the scheme's administration to a trade association without strong independent governance and regulatory oversight. We also encouraged the PSR to ensure the overall model embodied strong and clear rules and standards, given the ample scope for fraught and complex disputes about large amounts of money. We eagerly await the outcomes of the consultation and hope to be able to continue to support the PSR in its development of solutions on this extremely important issue.

Appendix 1 - Members of the PSR Panel between April 2017 – March 2018

Stephen Locke <i>(Chairman)</i>	Independent Adviser, Chair Advertising Advisory Committee
Mike Agate	Federation of Small Businesses
Ahmed Badr <i>(joined Dec 2017)</i>	Head of Legal, GoCardless
Mark Barnett	President, Mastercard UK and Ireland
David Brooks	Head of Finance Operations, Sainsburys
Andrea Dunlop <i>(joined Dec 2017)</i>	Divisional CEO, Paysafe
David Gaselee	Director of Transaction Product Management, Barclays Corporate Bank
Flora Hamilton	Head of Financial Services, CBI
Andrew Hewitt <i>(joined Dec 2017)</i>	Director of Payment and Data Solutions, FIS
John Howells	CEO, LINK Scheme
Cate Kemp <i>(joined Dec 2017)</i>	Global Transaction Director, Lloyds Bank
Conor Langford	Director of Strategic Accounts, Visa
Jana Mackintosh <i>(joined Dec 2017)</i>	Head of Public Policy and Regulatory Affairs, WorldPay
Pamela Meadows	Financial Services Consumer Panel member
Brendan Peilow	Executive Leadership Team, Banking Competition Remedies
Paul Rodgers	Chair and Founder, Vendorcom
Paul Thomalla <i>(joined Dec 2017)</i>	Senior Vice President, Global Corporate Relationships and Business Development, ACI Worldwide
Sian Williams	Head of National Services, Toynbee Hall
Craig Tillotson	CEO, Faster Payments
Robert White <i>(until Nov 2017)</i>	<i>Director of Payment Industry Oversight, Santander</i>
Rebecca Clements <i>(until Nov 2017)</i>	<i>Head of Industry Engagement & Payments Change, Metro Bank</i>
Carlos Sanchez <i>(until Nov 2017)</i>	<i>CEO & Co-Founder, Orwell Group</i>
Chris Dunne <i>(until Nov 2017)</i>	<i>Director, VocaLink</i>
Sreeram Yegappan <i>(until Nov 2017)</i>	<i>Director, Cognizant Technology Solutions</i>

Appendix 2 - Payment Systems Regulator Panel Terms of Reference

1. The Payment Systems Regulator Panel ('the Panel') is established by the Payment Systems Regulator ('PSR') under the Financial Services (Banking Reform) Act 2013. The Panel represents the interests of participants in regulated payment systems and those who use, or are likely to use, services provided by regulated payment systems.

Scope

2. The Panel makes representations to the PSR on the extent to which its general policies and practices are consistent with its general duties, and how its payment systems objectives may best be achieved, as required under the Financial Services (Banking Reform) Act 2013. See Appendix 1 for the general duties.
3. In considering the PSR's work, the Panel will focus on the PSR's objectives of promoting effective competition, promoting development and innovation and ensuring that payment systems are operated and developed in the interest of all those who use payment systems. The Panel will also have regard to the regulatory principles as attached in Annex 2.
4. The Panel's views are independent of the PSR. It does not carry out responsibilities on behalf of the PSR, but provides input and advice on development of PSR activities.

The Panel's Duties

5. The Panel will:
 1. Meet regularly (usually between four and six times a year) and be available at other times to be consulted by the PSR on specific high-level issues.
 2. Identify key issues which the Panel thinks the PSR should be considering when the PSR presents proposals to the Panel for consideration.
 3. Be proactive in bringing to the attention of the PSR, new or additional issues to be considered or research to be carried out by the PSR to assist the PSR in fulfilling its objectives.
 4. Maintain the confidentiality of information provided to the Panel when indicated by the PSR.
6. In fulfilling these duties, the Panel may:
 1. Request access to all information from the PSR which it reasonably requires to carry out its work. This will generally not include confidential information about specific regulated firms, individuals or markets.
 2. Have access to and engage regularly with the PSR Chairman, Board, Managing Director and senior executives of the PSR.

Membership

7. The PSR Board appoints Panel members, with HM Treasury's approval required for the appointment or dismissal of the Chair. Members will normally be appointed for a two or three year term, and will usually serve a maximum of two three-year terms.

8. The PSR will appoint to the Panel such persons representing participants in regulated payment systems and those who use, or are likely to use, services provided by regulated payment systems.
9. Members are appointed in an individual capacity on the basis of their experience and current role, and not as representatives of specific constituencies or organisations. They are expected to understand the general viewpoint of their sector and be able to contribute constructively in Panel discussions towards the development of the PSR's strategic thinking from that perspective. There is no express requirement on Panel members to consult with colleagues or related organisations on the issues discussed by the Panel, although they are free to do so (subject to confidentiality) if they wish to. Nor is the business of the Panel a substitute for formal public consultation processes by the Payment Systems Regulator with the sector or interests concerned. It may from time to time be appropriate for Panel members to discuss the general issues on Panel agendas on an informal basis, as a means of enhancing members' input to the Panel. But Members will also be required to respect the requirements of confidentiality: to enable the Panel to function effectively and provide early input to PSR policy development and other decisions, Panel members will often not be able to share the details of discussions which take place with those outside the Panel and PSR. Any such confidentiality requirements will be clearly flagged by the Secretariat.

PSR and Financial Conduct Authority Duties

10. Under the Financial Services (Banking Reform) Act 2013, the PSR must consider representations made to it by the Panel, and must from time to time publish in such a manner as it thinks fit, responses to the representations.
11. The PSR will provide the Panel with early access to appropriate information in order for the Panel to fulfil its duties and will ensure secretariat support is provided to the Panel to enable it to operate effectively.
12. The PSR Board will consider any proposals from the Panel for additional funding for specific projects (including research) which the Panel considers necessary in order for it to fulfil its duties under these terms of reference.

Accountability

13. The Panel will publish an annual report on its work, which will be presented to the PSR Board.