



**Electronic Money Association**

Crescent House

5 The Crescent

Surbiton

Surrey

KT6 4BN

United Kingdom

Telephone: +44 (0) 20 8399 2066

Facsimile: +44 (0) 870 762 5063

[www.e-ma.org](http://www.e-ma.org)

Chris Hemsley  
Managing Director  
Payment Systems Regulator  
12 Endeavour Square  
London E20 1JN

Email to: [psrstrategy@psr.org.uk](mailto:psrstrategy@psr.org.uk)

10 September 2021

Dear Chris

**Re: EMA response to PSR Consultation on the proposed 5-year Strategy**

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide that provide online payments, card-based products, electronic vouchers and mobile payment instruments. They also include a large number of smaller Payment Service Providers, including startups. The majority of EMA members are authorized in the UK, and operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document.

We welcome the opportunity to respond to the PSR's Consultation on the proposed 5-year Strategy, and we would be grateful for your consideration of our concerns.

Yours sincerely

Dr Thaer Sabri  
Chief Executive Officer  
Electronic Money Association

## EMA response to the Consultation

### 2. Consultation questions

#### ***Questions related to Chapter 2: Payments and Payment Systems in the UK***

**1. Do you think the key trends we have identified adequately capture the most important system-level changes payments and UK payment systems are likely to experience over the next five years? If not, please explain what we have missed and why it is important.**

We agree that there has been a marked shift towards digital payments in recent years, accelerated by the COVID-19 pandemic. EMA members reported significant increases in e-commerce transactions.

We note and agree with the PSR's assessment of the changing nature of the interbank payment systems, and that as a result, the interbank schemes may have to adapt to accommodate future needs. However, we also consider that to introduce changes to the interbank payment schemes before the NPA is established, and in anticipation of evidence of widespread consumer harm is not only premature, but may place at risk the potential for innovation in interbank payments. This stands in direct contrast to the PSR's stated objective of enabling interbank payments to provide a viable alternative to cards.

For instance, the number of interbank payments used in an e-commerce or retail context is increasing, but as the PSR's transaction figures illustrate (Table2) this has not yet reached the levels of card payments in the UK. Given the nascent stage of the market offering consumer's the ability to use interbank payments to make retail purchases, the likelihood of any increased use in this respect will be even less likely if costly consumer protections are applied to Faster Payments System transactions.

A trend that has not been addressed in any significant way in the PSR Strategy document is the development of stablecoins, and possibly more significantly the potential launch of Central Bank Digital Currencies (CBDCs) either in the UK or in other countries. The use of CBDCs by UK consumers is likely to impact on retail payments within the next 5 years, so we recommend the PSR consider how this may impact the PSR's strategy going forward.

#### ***Questions related to Chapter 3: Outcomes we'd like to see in payments***

**2. Do you think the key outcomes we want to focus on provide the right balance between promoting competition and innovation and doing so in a way that benefits all the businesses and consumers that make payments in the UK? Please explain why or why not.**

*A. All users have access to payment services that meet their needs in terms of functions, quality, cost and other relevant factors.*

We agree.

*B. Users' interests are adequately protected when using payment services so that they use systems and services with confidence.*

We agree that users' interests should be adequately protected when using payment services so they can use those systems and services with confidence. However this does not necessarily presuppose that consumers should receive the same level of "protection"/compensation regardless of the payment method/system used. The consumer protections introduced by Section 75 had a very specific rationale and commercial reality. The chargeback service provided by the card schemes does not have consumer protection as an objective, but rather as a by-product of fraud management to address the unacceptably high levels of card fraud.

We note in several places in the PSR's Strategy document the assumption that current protections for interbank payments are inadequate. We do not think there is sufficient evidence to support the policy conclusion that interbank payments need additional protection at this stage.

The [EMA's response to the PSR Call for Views on Consumer Protection in Interbank Payments](#) elaborates on this in greater detail. The response explains how the PSR does not appear to have assessed the full extent of existing consumer protections, or have provided a rationale as to why PSPs should shoulder the liability for losses incurred by consumers as a result of unsatisfactory purchase of goods and services.

Before basing future work and priorities on the assumption of an apparent existing gap in consumer protection, a full assessment should first be conducted of these existing protections. If they are considered insufficient, their shortcomings should be set out in detail along with supporting data. This will provide a more informed basis from which to consider policy options regarding any further necessary measures for consumer protection in interbank payments. Perhaps more importantly, the PSR should also present a rationale for why PSPs, or payment systems, should bear the liability/cost of providing such consumer protections.

*c. Payment systems are designed and operated to enable effective competition in the provision of payment services.*

We support this outcome, and the PSR's approach to monitoring the development of the New Payments Architecture.

*d. Payment systems are efficient and commercially sustainable.*

We consider this to be a key outcome and we strongly support the PSR focusing on helping to build commercially sustainable, safe, resilient and competitive payment systems for the UK in the long term. We also highlight that the impact of any increase in cost of payment systems for PSPs – for example additional consumer protections for interbank payments - is felt much more by PSPs that offer payments as service, as they do not benefit from the cross-subsidisation afforded by entities offering credit, and it is much harder for them to absorb the cost of shared liability with the merchant. For example, such costs would likely make the PISP e-commerce use case commercially non-viable.

### **Questions related to Chapter 4: Our Priorities**

#### **3. Do our strategic priorities provide the coverage, focus and flexibility we need to achieve the outcomes we want to focus on over the next five years? Please explain why or why not.**

In a document setting out the PSR's future strategy, we were surprised to note that there was very little reference to the [Payment Strategy Forum \(PSF\) final report](#), or an assessment of developments since then. Such an assessment would have considered the progress in each of the areas identified by the PSF Report, and the evolution of those objectives since then.

We also note the PSR is not operating in a vacuum. Whilst the PSR acknowledges the existence and sometimes overlap with other regulators, there does not appear to be any reference to HMT's recent Payments Landscape Review, and UK payment policy in general.

- A. Ensure users have continued access to the payment services they rely upon and support effective choice of alternative payment options.*

We support the PSR's efforts in this area, and in particular, the focus on ensuring there remain a variety of access options for all PSPs.

There does not however appear to be much emphasis on tracking the progress and impact of the PSR's work on access to payment systems, for example by publishing the number of notifications received by the PSR under the Payment Services Regulations (PSRs) 105 and 106. Access to bank accounts and to payment systems remains a core interest and challenge for a large number of non-bank PSPs, and we query whether this remains a priority for the PSR, despite the statutory obligations assigned to the PSR under the PSRs.

- B. Ensure users are sufficiently protected when using the UK's payment systems, now and in the future.*

As set out under question 2, we agree that users should be sufficiently protected when using the UK's payment systems, but this does not necessarily presuppose that consumers should receive the same level of "protection"/compensation regardless of the payment method used.

There is no legal basis to hold a PSP or PISP liable for loss arising from a retail purchase; all liability must be levied directly on the party causing the loss (i.e. the seller) and the consumer should use the statutory redress mechanisms available to them to obtain reimbursement.

In addition, we would welcome further clarity regarding the additional powers to make changes to scheme rules, and enforce adoption that the PSR are proposing to allocate to Pay.UK. Historically the UK payment schemes were controlled by a small group of firms, and recent changes introduced by the PSF opened the governance of Pay.UK, specifically changing Pay.UK's ownership and decision making to be more consensus-driven. However the governance of Pay.UK still has limited representation from indirect participants, smaller PSPs or TPPs. Therefore any proposals to allocate greater autonomy to Pay.UK, without

commensurate changes to the governance of Pay.UK to further include indirect participants of the payment schemes, and those potentially most affected by any future conduct rules for the payment schemes (FPS in particular), will reverse the progress of recent years.

- C. Promote competition in markets and protect users where that competition is not sufficient, including a) between payment systems within the UK and b) in the markets supported by them.*

We fully support this priority.

As mentioned earlier, however, we are disappointed to note there seems to be little interest in tracking the progress and impact of the PSR's work on access to payment systems, for example by publishing the number of notifications received by the PSR under the Payment Services Regulations (PSRs) 105 and 106. Access to bank accounts and to payment systems remains a core interest and challenge for a large number of non-bank PSPs, and we query whether this remains a priority for the PSR, despite the competition impact this has in the payments market and statutory obligations assigned to the PSR under the PSRs.

- D. Ensure the renewal and future governance of the UK's interbank payment systems supports innovation and competition in payments.*

We support this priority and given the delays experienced by the NPA programme encourage the PSR to assist with ensuring that the programme moves on at pace.

**4. Do these strategic priorities provide clarity on the choices we make, and especially on why and when we choose to intervene? Please explain why or why not.**

It remains unclear on what basis the PSR intends to give greater powers to Pay.UK.

***Questions related to Chapter 5: How we will measure whether we are achieving our strategic priorities***

**5. Do you think the measures we propose will help us to assess whether we are achieving our strategic priorities? Please explain why or why not.**

We welcome the PSR's proposed measure under Priority 2 to assess the number and nature of consumer protection related complaints or disputes in relation to interbank payment schemes. As discussed in our previous responses, we do not think introducing a consumer protection governance framework would be beneficial, or proportionate for PSPs, for interbank payments without fully analysing the required need for such protections. The proportion of interbank payments being used for purchases of goods and services is still low. The setting up of a governance process to oversee consumer protections involving liability on PSPs sending payments would also require the setting up of additional scheme rules and infrastructure such as a dispute mechanism, a communication framework between parties, etc.

**6. What other criteria do you think are central to measuring our effectiveness and should those complement or replace those we propose in this document?**

We note that under Outcome/Priority 1: (*Ensure users have continued access to the payment services they rely upon and support effective choice of alternative payment options*) the measurement of success criteria does not appear to include the number of notifications received by the PSR under PSRs Article 105 or Article 106.

We propose that the PSR should periodically review bank reported data, and should assess both the PSD2 objective of:

- (i) extensive service offerings, and
- (ii) whether or not the outcome of ‘unhindered and efficient’ service by non- bank PSPs has been achieved.

The PSR should also publish data that informs the industry and other public institutions on the percentage of applications that are refused, the basis for such refusals across the industry, and it should comment on the reasonableness of such refusals.

The PSR could separately assess whether the criteria used by the banking industry as a whole has a chilling effect on competition, and whether the overall outcome hinders competition or creates a distorted playing field in the provision of payment services.

**7. Do you know any existing sources of data we can use to assist our metrics?**

See response to Question 6.

**List of EMA members as of September 2021:**

[AAVE LIMITED](#)  
[Account Technologies](#)  
[Airbnb Inc](#)  
[Airwallex \(UK\) Limited](#)  
[Allegro Group](#)  
[American Express](#)  
[ArcaPay Ltd](#)  
[Azimo Limited](#)  
[Bitpanda Payments GmbH](#)  
[Bitstamp](#)  
[BlaBla Connect UK Ltd](#)  
[Blackhawk Network Ltd](#)  
[Boku Inc](#)  
[CashFlows](#)  
[Circle](#)  
[Citadel Commerce UK Ltd](#)  
[Contis](#)  
[Corner Banca SA](#)  
[Crosscard S.A.](#)  
[Crypto.com](#)  
[Curve](#)  
[eBay Sarl](#)  
[ECOMMPAY Limited](#)  
[Em@ney Plc](#)  
[emerchantpay Group Ltd](#)  
[ePayments Systems Limited](#)  
[Euronet Worldwide Inc](#)  
[Facebook Payments International Ltd](#)  
[Financial House Limited](#)  
[First Rate Exchange Services](#)  
[FIS](#)  
[Flex-e-card](#)  
[Flywire](#)  
[Gemini](#)  
[Globepay Limited](#)  
[GoCardless Ltd](#)  
[Google Payment Ltd](#)  
[HUBUC](#)  
[IDT Financial Services Limited](#)  
[Imagor SA](#)  
[Ixaris Systems Ltd](#)  
[Modulr FS Europe Limited](#)  
[MONAVATE](#)  
[Moneyhub Financial Technology Ltd](#)  
[Moorwand](#)  
[MuchBetter](#)  
[myPOS Europe Limited](#)  
[OFX](#)  
[OKTO](#)  
[One Money Mail Ltd](#)  
[OpenPayd](#)  
[Own.Solutions](#)  
[Oxygen](#)  
[Park Card Services Limited](#)  
[Paydoo Payments UAB](#)  
[Paymentsense Limited](#)  
[Payoneer](#)  
[PayPal Europe Ltd](#)  
[Paysafe Group](#)  
[Plaid](#)  
[PPRO Financial Ltd](#)  
[PPS](#)  
[Remitly](#)  
[Revolut](#)  
[SafeCharge UK Limited](#)  
[Securiclick Limited](#)  
[Skrill Limited](#)  
[Snowy Pay Ltd.](#)  
[Soldo Financial Services Ireland DAC](#)  
[Square](#)  
[Stripe](#)  
[SumUp Limited](#)  
[Syspay Ltd](#)  
[Transact Payments Limited](#)  
[TransferMate Global Payments](#)  
[TrueLayer Limited](#)  
[Trustly Group AB](#)  
[Uber BV](#)  
[Vitesse PSP Ltd](#)  
[Viva Payments SA](#)  
[Vivid Money Limited](#)  
[Weavr Limited](#)  
[WEX Europe UK Limited](#)  
[Wirex Limited](#)  
[Wise](#)  
[WorldFirst](#)  
[WorldRemit LTD](#)