



UK Finance

Briefing Note: Payment and Emoney Insolvency Regulations

UK Finance responds to HM
Treasury's review of the PESAR
Regulations

30 May 2025

Summary

The Payment and Electronic Money Institution Insolvency Regulations 2021 (PESAR) are being reviewed by HM Treasury. UK Finance has provided its feedback to the review which is summarised in this briefing note.

The PESAR were introduced to ensure a more robust and customer-focused insolvency framework for payment and e-money institutions (EMIs/APIs). However, real-world experience suggests that the regime, based on the Investment Bank special administration regulations (IBSAR), has not delivered on its key objective: a faster, more effective return of funds to customers.

UK Finance, informed by insolvency practitioners and legal experts, supports the continuation of PESAR but recommends a targeted rebalancing. Key areas include improving the speed of fund return, enabling continuity of trading where appropriate, addressing practical challenges for administrators, and ensuring the regime accommodates the diversity of the payments and emoney sector.

Given the importance and complexity of payment and e-money firms insolvencies, we were delighted to work again with two of the leading law firms in this space, Linklaters LLP and Osborne Clarke LLP, who provided world class insight and experience. We are enormously grateful for their expertise and support.



Douglas Hawthorn,
Anna Perry, Paul
Anning, Paul Harris



Rory Conway,
Richard Hay, Harry
Eddis, Simon
Treacy

Background

PESAR was introduced in 2021 following a series of complex payment firm failures. Its aim was to deliver better outcomes for consumers by enabling quicker return of safeguarded funds, minimising market disruption, and enhancing confidence in the payments sector. It drew heavily from IBSAR, the special administration regime for investment banks.

However, EMIs and APIs differ significantly from investment firms. They serve largely retail customers, often hold low-value balances, and support vital transactional services, including payroll, utility payments, and business merchant acquiring. The one-size-fits-all approach has proven problematic.

Key Issues

1. Delayed Return of Customer Funds

PESAR's objective to return funds "as soon as reasonably practicable" has not been met in practice. The requirement for a court-approved distribution plan and hard bar date introduces delays and administrative cost, particularly in less complex cases. Dormant accounts and micro balances hinder progress and cost more to administer than they deliver in repayments to those account holders.

2. Continuity of Trading Not Supported

PESAR does not enable administrators to maintain services post-insolvency – even where this would be in customers' best interests. Many payment service users care about continuity of service more than return of funds e.g. a retailer still needs a card acquirer and it can take several weeks to find an alternative.

3. Administrator Challenges and Disincentives

The current waterfall of expenses, and uncertainty over recoverability of costs, creates material disincentives for insolvency practitioners.

4. PESAR Is Misaligned with the Nature of EMIs/APIs

PESAR's structure assumes complexity akin to brokerage firms, which is often not the case for transactional EMI/API models.

Recommendations

1. Accelerate Distribution of Customer Funds (Reduce Court Processes)

Remove or simplify the requirement for court-approved distribution plans, permit interim distributions, and streamline bar date approvals. Where courts are required, the application should be fast tracked as an emergency hearing.

2. Enable Continuity of Trading

Clarify that continued service is permissible in appropriate scenarios and supported by FCA guidance.

3. Rebalance Administrator Incentives

Clarify expense waterfalls and cost recoverability for administrators.

4. Scope PESAR Appropriately

Exclude non-fund-holding firms from PESAR or provide alternative guidance.

5. Address Pay Out Inefficiencies

Small balance account holders and dormant account holders are problematic. The time involved in reaching out to them and paying them disproportionately impacts the insolvency and the desired outcomes. Some consideration should be given to dispensing with the need to continue engaging with these customers and paying them.

6. Modernise the Legal Framework

Bring the legislation into line with modern looking legislation to bring flexibility and avoid legal uncertainty: apply the Small Business Enterprise and Employment Act 2015 provisions (such as deemed consent).

7. Systemic or very large firms

Some thought should be given to systemic firm insolvency. The overnight insolvency and closure of a strategically important firm with many customers needing its services 24/7/365 could have a dramatic impact. Their customers' situation could be mitigated by the firm having access to a liquidity and resolution regime allowing for emergency funding and an orderly transition to other providers.

Safeguarding Policy Alignment

The issues identified with PESAR align closely with themes raised in UK Finance's safeguarding policy [response](#) to FCA CP24/20. A core element of that is the recognition that a one-size-fits-all approach to safeguarding and insolvency cannot address the diversity in the sector, particularly the scale and complexity of international enterprise firms.

These enterprise firms require a more nuanced framework. Safeguarding policies – and by extension, the insolvency frameworks that depend upon them – must recognise that large institutions operate with enterprise-level systems, often across multiple jurisdictions and business lines. These firms require alternative approaches to reconciliation and continuity of service that differ from those appropriate to smaller, monoline EMIs.

As highlighted in both policy papers, continuity of trading can be critical for customers and the market, particularly when dealing with systemic players. The PESAR regime should therefore be revisited to ensure it does not impede this where it could instead support resolution outcomes. We believe that enabling flexibility, such as through partial returns, post-administration receipts usage, and prioritised regulatory engagement, can deliver better outcomes without compromising customer protection.

Acknowledgements

In addition to thanking Osborne Clarke LLP and Linklaters LLP for their legal expertise in developing our response, we are also grateful to FRP Advisory LLP, Interpath Limited, and Grant Thornton UK LLP, who have each been instrumental in shaping the recommendations presented here. Their insights reflect extensive real-world experience with the PESAR and IBSAR regimes and the operational challenges of implementing them in complex payment

firm insolvencies. The views expressed here are those of UK Finance and its relevant members.

For further information, please contact [**adam.scarrott@ukfinance.org.uk**](mailto:adam.scarrott@ukfinance.org.uk)