



## UK Finance response to the PSR's consultation on general directions on implementing Confirmation of Payee

4th January 2019

### Introduction

UK Finance is the collective voice for the banking and finance industry. Representing more than 250 firms across the industry, we help drive forward positive change to enhance standards, support customers and promote innovation.

We welcome the opportunity to respond to the Payment Systems Regulator's (PSR) consultation on general directions on implementing confirmation of payee (CoP) and we would welcome the opportunity to discuss it with the PSR.

**Question 1** *Is giving directions under section 54 of FSBRA to PSPs requiring them to introduce CoP the right approach to securing our objectives, in particular to reduce significantly losses and harm from APP scams and accidentally misdirected payments as soon as possible? Are there other approaches that would lead to the same outcomes that we should consider, and, if so, what are they? Do you have any other comments on the issues raised above?*

Our members support the introduction of CoP to help protect customers from authorised push payment (APP) scams and misdirected payments. The banking and finance industry is committed to making CoP a success and providing customers with the best possible experience.

A Direction could help provide certainty to the market giving all payment service providers (PSPs) a legally binding and common target – but the timeframes need to be credible and realistic to allow effective implementation and co-ordination that avoids any disruption to customers and does not unintentionally shift fraud risk, for example, to smaller firms.

The timelines currently envisaged are simply not achievable – given the demands on firms resulting from implementation of the Competition and Markets Authority's (CMA) Retail Banking Market Investigation Order 2017, the revised Payment Services Directive (PSD2), the IT freezes associated with the UK's anticipated withdrawal from the European Union on 29 March and several other industry programmes of a legal, regulatory or mandatory nature. They also do not take account of the critical dependency for many firms on vendor solutions. The capacity and capability in firms to implement a new regulatory mandate in the first half of 2019 is, in consequence, extremely limited.

Most PSPs would not be able to meet a short notice legal mandate to implement CoP. The mandate is even more challenging for firms currently implementing PSD2 requirements at pace but at a later stage than the nine subject to the requirements for open application programming interface (API) standards and data sharing in Part 2 of the CMA Order (the CMA9).

The result would be only a few firms implementing CoP, creating confusion amongst customers and a long tail of firms going live, thereby squeezing the ubiquity necessary to deliver CoP's benefits and risking customer adoption.

We would suggest the PSR work with us, our members, Pay.UK and the Open Banking Implementation Entity (OBIE) to create a timeline that ensures effective implementation without delay and allows implementation to be co-ordinated and fully tested. If necessary, implementation could be phased in a way that focusses on delivering the best possible customer outcome where the customer detriment is most apparent. We provide an outline implementation proposal below.

Co-ordination is essential to implement a new service at pace that will impact all consumers and businesses. It is needed to ensure that all PSPs – both direct and indirect participants – are informed, network issues identified and resolved, and implementations properly tested. It is also critical to ensuring that unintended risks and consequences are identified, for example, to mitigate any adverse impacts on confidential invoice discounting facilities used by around 25,000 of the UK's largest firms necessary to ensure their access to working capital. These currently rely on confidential account names that the payer could not know.

The Direction and timeline should be predicated on the following:

- A final and stable set of specifications, rules and guidelines (with the basic standards and logic, against which PSPs can establish their matching evaluation). There is a particular concern that indirect participants have not yet received all the information they need, for example, the terms and conditions for joining the Open Banking Directory for CoP only;
- The ability to receive and respond to CoP requests. The ability to send requests would therefore become a competitive matter for PSPs themselves to determine which accounts and which types of payment are suited to a confirmation of payee request (although some have made the case for both receive/respond and send to create greater ubiquity);
- The availability of vendor solutions with sufficient bandwidth to accommodate multiple implementations across the PSP community and time for firms to undertake due diligence on proposed solutions and on board a supplier. Smaller institutions have stressed this point to us throughout our discussions on responding to the consultation;
- Access to the Open Banking Directory for all PSPs caught within the scope of the Direction and clarity about the terms under which the Directory is used for CoP only. At the time of writing, the terms and conditions for joining the Directory for CoP purposes only are not available;
- Placing all PSPs under a legal obligation to implement CoP puts the Open Banking Directory at the heart of the UK's payments infrastructure. All PSPs would depend on it to offer a CoP service and manage their liabilities under the Contingent Reimbursement Model (CRM). The regulatory authorities will need to consider whether the existing governance, liability and funding arrangements are sufficiently robust;
- Implementation support and co-ordination so that there is industry wide visibility on firm's approaches;
- If necessary, a phased approach that tackles the most significant sources of detriment first and recognises that the receipt and response to a CoP request is necessary for all PSPs whereas sending is a more competitive matter;
- A testing plan that identifies implementation risks and allows for them to be mitigated. There is a particular concern in the industry around the volume of false negatives (no matches and close matches for correctly inputted payments) and the impact on the use of the Faster Payments Service (FPS), including abandoned payments, if an unacceptably high volume of false negatives emerges. There is also a concern about uncertainty over the response speed to a CoP message and that vendor solutions are still in development that will augment and optimise the matching process;

- A managed roll-out of at least six months from the date at which there is confirmed availability of final specifications, rules and guidelines and enrolment on the Open Banking Directory<sup>1</sup>. The rollout would steadily increase the volume of CoP API calls and allows any risk around no match/close match volumes to be measured and assessed. The Open Banking APIs were introduced through managed roll-out to help de-risk the implementation. For some firms with a critical dependency on vendor solutions, a narrow window will be very challenging and does not allow for a diligent procurement and on-boarding process;
- The development of customer communication tools and a realistic marketing approach which explain the changes and encourage a behavioural change in the way customers make digital payments to include the accurate input of the account holder name (thereby increasing the verified payments); and
- Central co-ordination support is essential to effective implementation without unnecessary delay. The absence of a central utility – other than the Open Banking Directory – does not obviate the need to co-ordinate network aspects of the implementation.

The timeline also needs to take account of the implementation requirements already resulting from the CMA Order on open banking and PSD2. These mandates and the proposed Direction draw on the same implementation capability – which is already overstretched, particularly in smaller firms.

Many firms have said to us that they will not therefore be ready to receive and respond to CoP requests until Q4 2019, with some suggesting Q1 2020.

### **The proposed scope of the directions**

**Question 2** *Assuming directions in respect of FPS and CHAPS are given, are there any types of PSP that should not be given the directions? What is the basis for your view, particularly having regard to the likelihood of achieving the benefits of CoP?*

A level playing field for all PSPs is the best way manage fraud risk and avoid displacing the fraud risk (and liabilities under the CRM) to relatively late adopters.

**Question 3** *Should the same PSPs be subject to a requirement to respond to a CoP request as those that are required to send a request?*

All PSPs should be subject to the requirement to receive and respond to a CoP request. The speed at which a response is sent is critical to the success of CoP. We know from open banking that API response times can vary. A co-ordinated approach to testing will illuminate any concerns about response times and what is an acceptable standard.

**Question 4** *Do you think that we should consider giving directions in relation both to FPS and CHAPS transactions? If you believe that we should consider giving directions in relation to only one of these payment systems, or more than FPS and CHAPS, please set out why. Are there any other issues that we should consider when deciding which payment systems should be in scope?*

The Direction should apply to both FPS and CHAPS transactions. But the main source of risk of detriment is FPS transactions, with relatively few CHAPS payments at risk of either APP scams or misdirection, although where these occur the value is higher. Some firms have suggested that the Direction is phased to apply to FPS first and then CHAPS in respect of a new payment mandate being set up or an existing mandate being changed. They have cited the additional protections that exist around CHAPS payments, the pre-validation tools available and the importance of differentiating the use of CHAPS for retail and wholesale payments.

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<sup>1</sup> OBIE operates a rule that provides the CMA9 (who importantly have delivery teams in place) for at least a six month window from the publication of final specifications and guidelines to implementation. This window does not take account of the need to procure a vendor solution.

There is a danger of steering fraud towards the smaller PSPs who use Head Office Collections Accounts (HOCAs) as there will be no solution for this until Phase 2 (timing tbc and creating an anomaly with the proposed Direction). The consultation is also not explicit on whether PSPs using HOCAs for receiving CoP requests (e.g. many building societies) would also be out of scope for sending requests even if they send payments from their own sort code account numbers.

**Question 5** *Should the directions apply to all payment channels that an FPS or CHAPS payment can be initiated from? Should a CoP request only apply when a new payment mandate is being set up or changed?*

Yes, it should apply when a new payment mandate is set up or changed. Some of our members have suggested a phased implementation with online and mobile payments channels addressed in phase one.

There are some payment channels to which the Direction should not apply. The direction cannot apply to channels where there is no graphical user interface or where the customer does not communicate with a PSP employee unlike in branch or over the phone. In these circumstances the messaging to customers cannot be controlled. This would include channels like FPS direct corporate access and file input, host-to-host channels, SWIFT users and where a payment initiation service provider is involved. Although nothing should stop PSPs developing services for such channels should they wish to.

**Question 6** *How should any directions deal with the potential for people to opt out of the CoP process?*

An opt out to respond to CoP would be desirable for certain customer types (especially where there is a need to protect their identity) or certain types of transaction but the terms under which the customer exercised that right should be clear. This needs to be considered carefully and the legal basis understood so that there is a consistent approach.

Corporates should be given the possibility to opt out of CoP when sending payments to consumers, as CoP may not be linked to resource planning systems and they may not be in a position to handle the responses.

**Question 7** *Should any directions cover the sending of money from both individual and business accounts?*

Yes, but there will be some types of account where there is confidentiality – in these cases a work round needs to be designed.

The complexities in servicing accounts for large corporate clients and other financial institutions (FIs) also need to be taken into account.

On the sending side, most customers will send files and their PSP would not know if any payment within a file was “new” or recurring because this would be handled upstream by the customer in their own resource planning system. It is helpful to be clear this is a phase 2 issue where there is scope for third parties to enter the market and provide such services and offer solutions at payment set up level.

On the receiving side, it would be rare for large corporate customers to have payments that are fraudulent in nature directed towards them. The complexity for a PSP supporting large corporate clients is in providing a comfortable match that takes into account complex structures, trading names and aliases, for example, where they have purchased a company or are undertaking a divestment, and on behalf of structures. Additionally, there are virtual account propositions in the large corporate cash management space. Consideration should be given to exemptions for large corporate and FI customers.

### **The rationale for our timeframe**

**Question 8** *Should the directions separate out responding to CoP requests from being able to send CoP requests? Should directions cover both sending and responding?*

The Direction should initially apply only to the ability to receive and respond to requests (although some have made the case for including both receive/respond and send in the Direction to create greater

ubiquity). This places the sending of requests in the competitive space. This could be monitored to ensure the population of “senders” develops in a balanced way. It also allows PSPs that are ready to send CoP requests ahead of others to receive a response.

**Question 9** *Do you agree with the deadlines for the introduction of CoP? If you do not agree, please set out why you consider different dates would be more appropriate and your view of the impact that would have on the costs and benefits of CoP. If the dates are not considered achievable, please give reasons and alternative dates that you consider achievable and the reasons why.*

We set out below (please see annex) an alternative implementation proposal that is designed to deliver the benefits of CoP at pace, in a way that maximises the opportunity for it to work well in the market. The impact on the real-world costs and benefits would be marginal since the cost benefit analysis makes unrealistic assumptions about go live implementation.

## **Alternative approaches**

**Question 10** *Are there any alternative approaches that we should consider instead of giving directions to PSPs as set out in this document?*

We consider that a direction to PSPs provides a helpful way to co-ordinate the market in providing greater protection in the vast majority of transactions at risk of either misdirection or APP fraud.

For the reasons set out in this response, we would propose a more realistic timeline based on Q4 2019 to ensure CoP works well for customers, allows thorough implementation and testing and would not therefore require expensive re-work in the future.

## **Cost Benefit Analysis**

**Question 11** *Is our assessment of the benefits the right one? If you do not agree, please set out what you consider would be more appropriate and your view of the impact that would have.*

We do not believe CoP will have the impact level assumed in the cost benefit analysis.

The benefits case is predicated on the £93.9 million figure that is said to be the total value of malicious redirections scams in H1 2018. This includes over £20 million (Bacs and International payments) that is not in scope for the direction or the service designed by Pay.UK.

The analysis does not take account of any technical implementation issues that will limit the early impact of the service, for example, algorithm learning.

The initial impact of CoP will be quite high as fraudsters will not be used to the prevention tool and will need to adapt and change their tack to bypass the CoP messages. However, experience has proven that fraudsters will adapt to the changing landscape. The analysis does not appear to take account of displacement effects and the possibility that the impact of CoP could diminish over a period of time.

Clearly too the analysis will depend on the precise scope of the direction. It is not clear what assumptions have been made about the different possible variables raised by the questions in the consultation. A rapid implementation, with unintended consequences and poor customer experience, could reduce the benefits.

**Question 12** *Is our assessment of the costs the right one? If you do not agree, please set out what you consider would be more appropriate and your view of the impact that would have.*

We have not gathered any evidence on the costs of implementing and running CoP, which will in any event vary according to the scope of the Direction.

**Question 13** *Is our assessment of the trade-off between costs and benefits the right one? If you do not agree, please set out what you consider would be more appropriate and your view of the impact that would have.*

The costs and benefits may not apply equally to all PSPs. For smaller PSPs there is the risk that the costs of implementation and ongoing operation of CoP exceeds the additional liabilities that would be incurred in the event CoP is not applied.

The costs and benefits may not apply equally to different channels. Some of our members have said the costs of applying CoP to telephony channels would exceed the benefits, given that most APP scams are online.

**Question 14** *What is your view on the impact of the proposed dates in our approach to the trade-off between costs and benefits. Do you consider that imposed April and July deadlines impacts either the costs or benefits of implementing CoP relative to a later implementation date – for example, 2020 or later?*

The costs of implementing CoP to the April and July deadlines would be materially higher, for example by compressing demand for vendor solutions into a shorter time window. If the timelines provide for a ubiquitous implementation and a good customer experience, the benefits are much more likely flow through.

If shorter timescales were to result in shorter testing cycles and increased false negatives, the customer demographic most at risk would be those vulnerable customers that are in most need of fraud protection and that will require the most education and guidance. Customers would also benefit significantly if PSPs align and simplify their communications toward a mutual date, as this is more likely to gain a positive response, less abandonment of transactions due to lack of confidence and fewer opt-outs in the longer term.

### **Equality Impact Assessment**

**Question 15** *Do you have any comments on our assessment of the impacts of the directions we are considering on protected groups or vulnerable consumers? Do you have any evidence that will assist the PSR in considering equality issues, and in particular complying with its public equality duty, in deciding whether to give directions and considering alternatives?*

The current deadlines do not allow firms the opportunity to adequately consider the impacts on protected groups and vulnerable customers before the launch of the service or whether the rules and guidelines adequately cover these issues.

## Annex: UK Finance Implementation Schedule

Activity – Phase 1	Timing	Commentary
Individual and business accounts, FPS transactions, all PSPs, online and mobile transactions		
Pay.UK specifications, guidelines and rules	OBIE applies a six month rule between final sign off of specifications and implementation. During the development, specifications are open so firms can prepare their build against stable elements of the specifications.	Whilst published, the Pay.UK specifications, guidelines and rules have been subject to a non-disclosure agreement and many PSPs have not seen them. Some documents are still being updated with full baselining not happening until the end of January.
Open Banking Directory enrolment	OBIE should provide a timeline to enrol PSPs.	The terms and conditions for enrolling in the Open Banking Directory for CoP are not available yet.
Vendor solutions widely available	The PSR needs to take account of the availability of vendor solutions and orderly procurement.	Vendors have only had access the Pay.UK documents for a short time. Final vendor solutions are not present in the market at scale.
Vendor solutions – procurement		PSPs need time to undertake due diligence on vendor solutions, procure a solution and onboard the vendor.
Implementation build	OBIE applies a six month rule from the point at which documents are finalised to allow for implementation – with delivery teams already in place.	
Testing validation, self-attestation, accreditation of participants	In the Netherlands there was a three month non-customer facing testing phase alone.	<p>Effective implementation requires a network testing plan. Open Banking APIs were implemented through a managed roll-out, with providers' staff using the service in the first instance.</p> <p>Testing is required to gather: how a consumer would react to a <i>no</i> or <i>close match</i> response in practice; if the infrastructure, in the centre and within other PSPs, is resilient for the expected volumes; whether PSPs will be able to perform the matching in a sufficiently fast</p>

		time; and to assess the channel changes and customer messages that will be effective at getting the correct payee information from payers.
Co-ordinated and managed rollout		Volumes should be controlled to de-risk implementation
Internal (including front-line staff training) and customer communications		Work on communication materials can commence early in 2019
Customers communications and adaptations – protected and vulnerable customers		Work on communication materials can commence early in 2019
Go live	The PSR should consider the experience of the January 2018 deadline for Open Banking which led to a number of CMA9 firms placed under direction and re-working aspects of the implementation.	