FCA Quarterly Consultation 29 – CP20/18

Chapter 3 – Proposal to amend the open banking identification requirements (eIDAS certificate)

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Sent to: cp20-18@fca.org.uk

UK Finance is the collective voice for the banking and finance industry.

Representing more than 250 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation.

Q3.1: Do you agree with the proposed changes to Article 34 of the UK-RTS?

UK Finance and its members note the FCA's pragmatism in resolving the issues raised by the EBA's proposals on the revocation of eIDAS certificates. We are appreciative of the flexibility that it affords the industry in meeting the requirements for digital identification of TPPs, depending on the variability of scenarios associated with the potential revocation of eIDAS certificates for use by UK authorised participants in the open banking ecosystem.

We have noted a number of concerns on the final version of the amended text. These proposals ensure that UK customer detriment is not evidenced due to the changing technical requirements.

1. Our members are concerned initially that additional requirements may appear to be implied from the amended text contained in paragraph 5(a), requiring ASPSPs to 'verify that the payment service provider is authorised' when an alternate form of identification is used. It is not clear from the draft when the verification should take place. For clarity, UK Finance recommend that clause 5(a) be amended to 'verify on issuance of identification that the payment service provider…'
2. UK Finance understand that there are concerns that the requirements to carry specific information fields, particularly address fields of the issuer and the holder of the certificate, within the certificate may necessitate technical change for current certificate providers. It is unclear to UK Finance why the FCA is proposing to require this information in a digital certificate as there is firstly no business use for the information to be contained within the certificate; secondly it is not a standard requirement for digital certificates; and finally, unnecessarily duplicative as the FCA holds data relating to the principle place of address of a TPP on its Financial Services Register, a publicly available database which can be cross-

referenced using the Firm Registration Number (FRN). UK Finance recommend, therefore, that clauses 7(c)(i) and (ii) be removed from the draft text.

3. In the event that the FCA consider to retain clauses 7(c)(i) and (ii) in the regulatory text, UK Finance request that it work with industry to establish an appropriate timeline for the technical transition of firms from existing certificates to ones which meet the FCA's requirements; with regards to the difficulties elucidated later in this response.

4. UK Finance, our members and the wider industry is concerned that, despite the practical and pragmatic approach taken by the FCA to the problem at hand and the ability of firms in the market to offer and adopt solutions; nevertheless, there remains a real risk that it may be unachievable for the entire market to move to alternative solutions without customer disruption in the timeline required. This would have significant and detrimental impact on the customers of TPPs and ASPSPs in the UK and threaten the many businesses that are beginning to take advantage of the open banking ecosystem. UK Finance therefore propose that the FCA work with UK Finance and other industry stakeholders, including the Open Banking Implementation Entity (OBIE), FData, the EMA, the EPA as appropriate, to provide guidance to the industry to support cases where TPPs or ASPSPs may be unable to secure a certificate, or certification process, that either complies with the eIDAS regulation or the certificate requirements of proposed by the FCA. This could cover a time-limited period to enable firms to minimise customer disruption during this technical change.

5. Our members understand that there a number of possible scenarios that could require change by the industry. It is recommended that the FCA consider what actions both ASPSPs and TPPs should take in the event of being unable to meet the new requirements or engaging with firms who have been unable to meet new requirements come January 2021. These include:

    5.1. TPP migrating from an OB Legacy Certificate to an OBWAC, OBSEALs, or other alternative standard.
    5.2. TPP migrating from eIDAS certificates to an OBWAC or OBSEAL, or other alternative standard.
    5.3. ASPSP migrating a modified customer interface (MCI) from using eIDAS certificates to an OBWAC, OBSEAL or other alternative standard
    5.4. ASPSP migrating dedicated interface from enabling an OB Legacy Certificate to OBWAC, OB-Seal or other alternative standard.
    5.5. ASPSP migrating dedicated interface from enabling an eIDAS certificate to an OBWAC, OBSEAL or other alternative standard.
    5.6. ASPS utilising OB certificates as their alternative identification method without access to the OB Directory and who will not be able to check the FRN of a TPP utilising an OB Legacy Certificate, meaning they will be unable to verify the authorised status of the TPP in question.
    5.7. ASPSP migrating from existing directory service provider in the EU to another (e.g. OBIE) in the UK.

6. The transition of a TPP from one certificate to another will require the customer to authorise the existing consents on a new certificate. This customer engagement will take time and it is not clear at what stage TPPs will be able to transfer live customer consents to a new certificate. If TPPs are unable to transfer existing consents onto a new certificate in time, this could risk breaking customer consent and result in customer service disruption. Ideally, any transition should take place through the existing 90-day re-authentication mechanisms. To minimise customer detriment, a transition period is recommended.

7. Given the above, and the extent of the technical change required by firms elucidated in paragraph five; we recommend that the FCA consider a transition period of 12 months be arranged with industry and co-ordinated as outlined in paragraph four above.

8. Members of UK Finance have raised concerns with the management of the Temporary Permissions Regime (TPR). Specifically, how the TPR will manage EU TPPs in relation to any updated FRN supplied by the FCA for inclusion in the proposed certificates and how the FCA will handle the potential case that a EU TPP is no longer authorised but remains on the FCA TPR. UK Finance recommends that the FCA provide additional clarification to the industry in support of the amendments to the regulatory text.

9. Completing and testing all required infrastructure changes to ensure acceptance of both eIDAS for EU TPPs only on the TPR, OB certificates acceptance for UK TPPs on API channels, adjustments to MCI channels and the previously mentioned migration scenarios has a delivery risk due to the short timescales. This is accentuated with annual December change freeze for resilience purposes impacting available delivery timescales.

10. In light of the above considerations, we recommend that the FCA consider how it can support the necessary transition activities needed by the industry to ensure minimal consumer impact. There are various approaches which could be taken by the FCA and industry. One example suggested by a member with a Modified Customer Interface (MCI) has suggested that a period whereby TPPs are permitted to screen scrape (similar to the period the FCA allowed post 14-September to allow the ecosystem to adjust) would allow firms to prioritise delivery of technical requirements in order to fulfil legal obligations with confidence that there will be no cliff-edge disruption to services on 1st January 2021. However, this would only apply to industry participants who have built an MCI and so further analysis will be required to establish other suitable alternative arrangements for any transition mechanisms.

11. In the lead up the implementation of the regulatory text, members of UK Finance have noted that there is possibility for applicant TPPs journeys to be disrupted into launching Open Banking services. Especially given that current legal provisions require the use of an eIDAS certificate to onboard with many UK ASPSPs. UK Finance recommends that the FCA engage with prospective TPPs to understand how this might be mitigated in the three months leading up to January 2021.

12. We are supportive of the FCA's proposal to use an alternative certificate as a solution to the problem posed by a no-deal Brexit scenario. We acknowledge that certificates provided by the OBIE are currently widely used across the ecosystem and the likely common solution in the short term. UK Finance members request greater clarity from the FCA that these, and any other extant certificate, meet the FCA's requirements and that the FCA work with the OBIE to ensure that that ASPSPs and TPPs that do not currently utilise OBIE services are able to access these certificates in a proportional, objective and non-discriminatory manner and that a method is established for those certificates issued by the OBIE to be validated on directory services providers from the EU, and other UK based providers, to be non-discriminatory to those ASPSPs who use the directory validation services of an EU based directory service provider, such as PRETA.

13. In the medium to long term there may be risk of fragmentation across the industry if there is no standardisation. It is important that the use of common standards and interoperable processes are used by the market to enable ease of implementation across the diverse market of ASPSPs and TPPs. Where eIDAS certificate requirements are intended to evolve to include features such as AML checks, the FCA may want to consider how to support the market in achieving a standardised market. Members consider that such a long-term solution could be achieved through the OBIE becoming a QTSP which would allow the UK to replicate functionality available in the EU. Alternatively, a prescribed common standard for UK certificates, similar to the ETSI based eIDAS standards, could solve for fragmentation

risk. Such a UK standard should be as similar as possible to the standards used for eIDAS to make it as minimally disruptive to TPPs and ASPSPs in the UK.

14. Finally, UK Finance members have noted that it is of upmost concern that equivalence to the EU legal environment is imperative to ensure the UK's continued membership of the SEPA Zone. We suggest that the FCA provide such assurance to the industry as it can from its engagement with its European peers.

If you have any questions relating to this response, please contact Austin Elwood, Manager, Payments Policy (austin.elwood@ukfinance.org.uk)

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