

CP 19/04 – CoP Specific Direction Consultation

UK Finance Response

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Address: Payment Systems Regulator
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Sent to: cop.consultation@psr.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.

UK Finance is pleased to respond to the PSR's consultation on their draft specific direction regarding the industry's implementation of Confirmation of Payee (CoP). We are particularly glad to see that the PSR has taken on board the industry's response to its original consultation. In all, we are supportive of the implementation of CoP in a collaborative, pro-competitive and cohesive manner that will result in a beneficial outcome for end-users. We are likewise hopeful that the implementation of CoP by the industry will serve as an effective anti-fraud measure and reduce the volume and value of Authorised Push Payment fraud, deployed alongside other industry initiatives to reduce the impact of this category of fraud on the consumer.

From a market perspective; we see the CoP service as key for the industry to adopt, in a scale beyond that currently within the PSR's proposed direction, and are keen to enable as many of our members as possible to implement this service and deliver increased value to their customers. As part of that, we are working with Pay.UK and OBIE to support and co-ordinate the implementation of these standards by the industry and look forward to working to enable the PSR's desire to see this service delivered. The implementation of CoP is a significant change to the existing processes used by consumers to make payments and enabling a smooth implementation of these changes is a key goal of our engagement.

Moreover, work to implement CoP will fall to the same finite resources—both technical and managerial—within firms also implementing PSD2, other IT-enabled regulatory changes and discretionary activity. We question whether the PSR's analysis addresses the cumulative impact of its proposals, not least in terms of heightened operational risk and other consumer benefits foregone, and reiterate the concerns we expressed in our response to the Treasury Committee's inquiry into IT failures in the financial-services sector about the absence of coordination between public authorities over the substance, timing and prioritisation of their initiatives, particularly in regard to payments.¹

¹ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/treasury-committee/it-failures-in-the-financial-services-sector/written/95181.html>.

1. Do you have any comments on our proposed direction as set out in Annex 1?

UK Finance and its members are supportive of the implementation of a CoP service for the market; however, for this to be achieved in a manner that best meets the PSR's expectations on benefits to the market and end consumers, we believe there are a number of elements that need to be taken into consideration. These are as follows:

1.8.e

While UK Finance agrees that the firms the PSR has chosen to direct to implement CoP are aware of the specifications and have the sufficient technical connectivity to deliver against the requirements of the Pay.UK standards, the current requirement for firms to join the Open Banking directory is an item that the wider industry may not be as prepared for as the mandated firms and this may be a barrier for further adoption. Several of our members looking to implement CoP services that are outside of the PSR's proposed direction are not currently integrated with the Open Banking directory, do not currently have the specifications necessary for them to implement this service (please see comments on 3.3, 3.4, and 3.7.q) or have faced challenges engaging with Pay.UK in order to acquire copies of the necessary standards. We consider that OBIE and Pay.UK should resolve these issues as a matter of urgency.

3.1

In view of year end technology freezes, the proposed direction imposes a deployment of CoP response capabilities well before the stipulated deadline date. UK Finance is engaging with the industry, Pay.UK and OBIE in order to facilitate the deployment of CoP and we will engage with the PSR as necessary should barriers to this date arise.

Due to the decision to restrict access to the CoP specifications, it is not known by UK Finance whether the technical specifications provided by Pay.UK will enable Confirmation of Payee responders to differentiate between CoP requests made in relation to a transaction caught within the scope of the PSR's direction and CoP requests outside of the scope of the direction. Mandated firms will likely have to respond to all CoP requests in order to meet this requirement, regardless of whether they may or may not be made in connection with an applicable transaction. However, UK Finance regards this as an acceptable outcome of the proposed direction.

3.2

UK Finance note that, in order to comply with the standards as published by Pay.UK, PSPs are understood to be required to join the Open Banking Implementation Entity to access the Open Banking Directory service. As we stated in our response to the PSR's 2018 consultation, due to the competitive nature of the CoP service, the PSR is effectively putting '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'.

We therefore recommend that the PSR consider what actions it may need to take, in collaboration with Pay.UK, OBIE and UK Finance, in order to further the independence of this body and ensure that it can continue providing vital infrastructure to the industry within a governance model that serves the needs of a matrix of stakeholders wider than its current remit.

3.3

Please see our comments on 3.1.

3.4

It is considered by some non-mandated firms that a market imbalance may be created between those who are mandated to meet the PSR's timeline and those who are unable to do so. UK Finance recommend that the PSR review the impact upon competition and the potential migration of fraud rates that the limitation on firms within scope, and those who are unable to deploy the service under the current standards, may have upon the market.

We invite the PSR to consider whether their making of a direction will result in an imbalanced market for those outside of the proposed direction.

It is understood that only the firms specifically named in this direction will be obliged to fulfil the requirements of this direction and that firms participating in agency and other indirect participation models will not be considered as within scope.

UK Finance would appreciate specific clarity on the scope of firms to be covered within the current direction in relation to agency and other indirect participation models.

3.7

We recommend to the PSR that greater clarity be given as to the transactions that meet the criteria within this paragraph. It is understood that all of the criteria noted within this paragraph are considered within scope of this requirement must be met by a transaction for it to be considered in scope. For consideration, our suggested wording is provided below:

A transaction is 'applicable' only if it meets all the following criteria:

UK Finance also note that there is some confusion as to which party to a transaction should be monitoring whether a CoP request should be made.

We request that the PSR confirm whether the PSP sending a payment will be responsible for ensuring all applicable transactions captured within the scope of 3.7 are preceded by a CoP request.

3.7.p

In order to ensure that cross-border payments are explicitly out of scope of the proposed direction, UK Finance recommend that an additional criterion be added, suggested wording as below:

the transaction is not as a result of the sending or receiving leg of a cross-border payment or where the originating account is an account held outside of the UK

An amendment to 3.9 may provide greater clarity, such as to say:

An account is a ‘UK account’ if it is provided by a PSP in the course of that PSP’s service to a consumer or business within the scope of that PSP’s business within the United Kingdom

The impact of the second change above would be to take out of scope any holding accounts or other accounts used by a PSP, within the course of that PSP’s business in the UK, which are specifically used for the purposes of holding or forwarding on international or national payments that do not begin or end in conventional customer accounts; even if these holding accounts are accounts that are addressable by a standard sort-code and account number.

3.7.q

UK Finance wish to note their support of the specificity contained within this statement given the current lack of support by Pay.UK’s specifications of payment types or accounts that do not use a sort-code and account number combination as the sole means by which an account is identified. However, a firm may not always be able to recognise when a payment addressed to an account is using an additional identifier within a reference field to address a specific account. This may result in a CoP request being sent to an institution which is currently, as per a lack of specifications provided by Pay.UK, unable to respond to such a request.

UK Finance is aware that this may cause an anti-competitive environment with some institutions being unable, due to the current scope of Pay.UK’s specifications, to deliver the level of service that firms mandated by the PSR’s direction can provide. While institutions using non-standard account identifiers may still be able to send CoP requests to eligible accounts; customers using these accounts may be disadvantaged by the inability of their respective financial institution to respond to inbound CoP requests.

While the PSR is correct that an implementable service can be created utilising the current standards, UK Finance wish to note that there are key technical challenges which have not yet reached an optimal solution, particularly with regards to the directory provided by the Open Banking Implementation Entity as part of the Confirmation of Payee standards.

In order to mitigate these facts, UK Finance recommends that the PSR engage with Pay.UK and UK Finance in order to ensure that the next version of the standard is developed in a timely manner for all market participants.

3.7.r

As we noted in our response to the PSR's 2018 consultation on the implementation of CoP; '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.' '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.'

Additionally, for these channels, it may not be possible for an institution to verify whether a payment is made singly or in bulk and, while the capability for Payment Initiation Service Provider initiated payments to be supported by the CoP standards is planned for inclusion in Phase II of Pay.UK's standards; the capability does not currently exist to support a CoP journey across these channels. In light of these considerations, UK Finance recommend that an additional criterion be added, with suggested wording for consideration below:

the transaction does not originate from a corporate or consumer direct submission or unattended channel

3.7.s

Please see our comments on 3.1 and 3.7.q. It may not be possible for a PSP sending a CoP request to identify ahead of time that the receiving account for a payment is a PSP collection account. Given that it will not be possible for a firm to respond to these requests due to a lack of specifications provided by Pay.UK, the industry runs the risk of propagating an imbalanced market unless Pay.UK deliver on Phase II within a timeframe that will permit these account providers to enable this service in a competitive timeframe.

UK Finance re-iterates its suggestion that the PSR continue to engage with Pay.UK and UK Finance to ensure these specifications are fit for the entire market.

3.7.t

The current wording does not allow for 'trusted beneficiaries' to be set up; i.e. payees whose accounts may be confirmed using confirmation of payee and, subsequent to this confirmation, a later payment sent. UK Finance recommends that an additional criterion be added to this paragraph with the wording as suggested below:

is not to a payee that the payer has already set up as a verified beneficiary by undertaking a successful confirmation of payee request outside of a conventional payment process

It is unclear to UK Finance why the PSR explicitly state the requirement to undertake a CoP check against a payment to a payee to whom a payment has previously been initiated but not payment has occurred. While we support the implementation of CoP services to as many payments as

possible in order to establish the veracity of payees, both new and historical, we feel that this detail of implementation is better answered through implementation by individual firms within the contexts of their specific CoP customer journeys outside of a regulatory mandate. It is unclear as to how many financial institutions this could apply to and there are likely other 'edge case' scenarios that specific circumstances within a financial institution's technical infrastructure or customer offering may bring about and UK Finance believe that it is preferable for these institutions to have the discretion to apply a reasonable solution to these situations.

UK Finance request that the PSR remove the second bullet point to 3.7.t; 'the payer has previously initiated a payment from the sending account to the receiving account, but no payment actually occurred.'

3.9

Please see our comment on 3.7.p.

4.5

UK Finance requests that the PSR provide the earliest date by which it requires a directed PSP to submit a report concerning its proposed plan to implement Confirmation of Payee in 4.3 and adjust clause 4.5.a as this appears to allow the PSR to require a variation in the date by which the first report must be submitted to prior the date first provided in 4.3. UK Finance consider that the below wording could be a suitable alternative:

it must submit its first report on or before a different date, provided the requested date is subsequent to the [29 September 2019]

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

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