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CP18/1 REVIEW OF PSR DIRECTIONS MADE IN 2015

Cheque and Credit Clearing Company (C&CCC) is pleased to comment and respond to the consultation paper 'Review of PSR Directions made in 2015 (CP18/1).'

Background

The Cheque and Credit Clearing Company (C&CCC) was established in 1985 and, from that time until the present day, is proud of its record in providing members with the central payment system services for the exchange and settlement of cheques and credits.

Our objective is to ensure that cheques and credits remain a viable, secure and efficient choice of payment for all users. To achieve this we promote innovation and competition in payment choice by driving improvements in processing, service and efficiency, and we provide a trusted centre of excellence for anyone with an interest in cheques or credits.

In the evolving payments landscape, cheques and credits remain a preferred and trusted payment option among certain groups and for certain types of payment. For example, cheques remain a convenient way for businesses to pay a trade supplier and manage cash flow, and amongst consumers, are a popular way to pay utility bills, tradespeople and clubs or societies. In the past year, nearly three-quarters of UK charities and two-thirds of UK businesses both received and made payments by cheque over a monthly period. In total, the C&CCC cleared 293 million inter-bank cheques in 2017, with a total value of just over £356 billion.

C&CCC has delivered the Image Clearing System (ICS), which will bring the cheque into the digital age via the implementation of an image-based cheque clearing process in the UK.



A full account of our background and objectives can be found on our [website](#), as can more information on the [Image Clearing System](#).

Response

The PSR is reviewing its directions to ensure that they remain relevant and proportionate and that they reflect market realities as well as expected and potential future developments. The consultation seeks views to inform the PSR's decisions on whether changes will be taken forward to the Directions. These include the option to retain a direction as it stands, revise or revoke it.

Question 1: Do you agree with our proposed approach to GD2? If you disagree with our proposed approach, please give your reasons.

PSRs 2017 do not apply to paper cheque-based transfers and therefore the requirements under PSR 2017 may not be appropriate either now or in the future for exempt paper-based payments.

Question 2: Do you agree with our proposed approach to GD3, including in respect of the four payment card systems not covered by GD3 today? If you disagree with our proposed approach, please give your reasons.

No comment or response has been given on this question as it is applicable to the operators of card schemes only.

Question 3: Do you think that more needs to be done to increase awareness of the information sponsor banks are required to publish under SD1? If so, do you think that the PSR should take action, including by possibly revising SD1?

No comment or response has been given to this question.

Question 4: Do you think that the scope of SD1 should be widened to include additional requirements on sponsor banks (such as those set out in paragraph 3.49)?

No comment or response has been given to this question.

Question 5: Do you have any comments on how best we ensure that SD1 addresses all the right IAPs, at the right time? In particular, please comment on whether you think SD1, which currently addresses Barclays, HSBC, Lloyds and RBS, should be amended to address new entrant IAPs or replaced with a General Direction applying to a defined class of IAPs.

This specific direction should address all Indirect Access Providers, regardless of size or the services that they offer.



Question 6: Do you have any comments on our suggestion of consolidating GD4 and GD6 under an over-arching principle setting out the outcomes we expect operators to deliver? In particular, please comment on what impacts, if any, you would expect such a change to have. In your answer, you may want to comment on:

- **whether we should avoid being prescriptive about the mechanisms that operators might put in place, or whether we should retain the requirements of GD4 and GD6 as specific but non-exhaustive requirements that sit under the over-arching principle**
- **whether Principle 2, Key Consideration 7 of the CPSS-IOSCO Principles for Financial Market Infrastructures appears to be an appropriate starting point for developing an over-arching principle for GD4/GD6 purposes**

Being prescriptive could result in decisions being made by groups other than the Board or outside normal governance. An over-arching principle that enables operators to introduce appropriate mechanisms and to promote a culture where the needs of service-users are considered at every stage would support the PSR's objectives.

The Bank of England already supervises some operators against the responsibilities set out in the CPMI-IOSCO principles. We would be concerned about the same set of principles potentially being interpreted differently by different regulatory bodies.

Question 7: Do you have any comments on how well GD6 promotes the aim of increasing operators' transparency in the interests of their service-users? Do you think GD6 could be revised or improved to better promote this aim?

The publication of Board minutes enables service-users to see what decisions have been made by the operator but is it likely that service-users read the minutes for this purpose? Operators should be able to demonstrate to service-users that they are being listened to and engaged throughout the decision-making process and Board minutes are unlikely to fulfil this role.

GD6 could be revised to better promote the aim of increasing operators' transparency by broadening the focus of the direction rather than requiring compliance to the adherence of a single process.

Question 8: Are the existing requirements of GD4 and GD6 clear and easy to understand? (And, if you are a payment system operator, do you also find the existing requirements easy to apply?) If not, do you have any suggestions for improvements to GD4 and GD6?

The existing requirements are clear and easy to apply.



Question 9: Do you have any comments on our suggestion of revoking GD5?

The inclusion of this General Direction has driven both good governance and good behaviour. We would support the retention of GD5. The PSR must have powers to stop such a situation developing again in the future and these powers should not be applied retrospectively.

Question 10: Do you have any comments on our suggestions for compliance reporting in respect of GD2 and GD3?

When the PSR was set up it was clear that it would be different as an economic regulator rather than one regulating by compliance. Reporting should increase its focus on providing evidence of the good outcomes and positive impacts that the General Directions have promoted and created.

Question 11: Do you have any comments on our suggestions for compliance reporting in respect of GD4?

We suggest a different approach to monitoring compliance. For example, with operators responding to individual questions that are prompted by major decisions and/ or specific events that impact service-users. Both the questions and answers could be made publicly available.

Question 12: Do you find the existing requirements of GD1 to be clear and easy to understand? (And, if you are a participant in a FSBRA regulated payment system operator, do you also find the existing requirements easy to apply?) If not, do you have any suggestions for improvements to GD1? As far as possible, please base your answer on your own experiences of interpreting and applying GD1 to date.

The existing requirements are clear and easy to understand. However a revision of the General Definition could also include the implication that the relationship is two-way, which has been our practical experience of GD1.

Question 13: Do you have any comments on our suggestion of replicating the substantive requirements of GD1 under General Directions issued under our PCIFRs and PSRs 2017 powers?

PSRs 2017 do not apply to paper cheque-based transfers and therefore the requirements under PSR 2017 may not be appropriate either now or in the future for exempt paper-based payments.

Question 14: Do you have any other comments on how we might improve the content, text, structure or format of one or more of General Directions 1 to 6 and Specific Direction 1, including the guidance on these Directions? Please give reasons for your suggested changes.

We believe that all forms of payment systems and remittance systems should fall under the same regulation. PayPal, Apple pay, etc appear to be outside the scope of the PSR. Consumer protection



would be enhanced if all were regulated by the PSR. This would also provide equivalence in the eye of the consumer who already sees these payment methods as equal but potentially does not realise that some are, and some are not, regulated.

Where circumstances prevent an operator from complying with the General Directions an exceptions process should be available to the PSR to exercise at its own discretion.

In CP14/1 (A new regulatory framework for payment systems in the UK) it was stated that “We consider that it is inappropriate for executive and independent directors of Interbank Operators, specifically their Managing Directors, to be employed by UKPA (or another third party). Rather, we expect these individuals to be accountable to the board of the Interbank Operator for which they work, without a reporting line to UKPA, the Payments Council or another third party, and we will work with the industry to address this. We will also keep under review the need to issue a direction to address these concerns.”

Thee statement above is fundamental to the way that payment systems are managed, and we consider it important that the PSR considers issuing a direction or including these areas in its guidance as this statement informs much of the corporate knowledge of ‘this is how we do things’ and helps to inform other decisions.

Question 15: If you have not covered it already in your response(s) to other consultation questions, do you have any comments on our current thinking on the intended benefits and anticipated costs of the proposed changes to our 2015 Directions?

We welcome any reduction of the burden on operators that results in benefits, directly or indirectly, for service-users.

Confidentiality

C&CCC is content for this letter to be made available to the public. We will be making it available through our website.

Yours faithfully,

Alan McDonald

Managing Director