

Title: Response to PSF strategy consultation

Respondent: Association of UK Payment Institutions

### **Question 1**

In discussing end users, the focus appears to be on consumers who use automated payment methods, and who are seeking improvements to payments associated with this. But within the money remittance sector, 90% of customer payments are made in cash, not electronically. There is no recognition of this in the strategy document.

We estimate that around 900 of the UK FCA regulated PI's are looking for solutions that recognise that the consumer is transacting in cash.

### **Question 2**

We see no recognition that many consumers may be excluded from the formal financial sector because they do not have a bank account. We think that the Basic Bank account strategy has failed to deal with this problem. We would judge that vulnerable consumers should include those who can not obtain their own bank accounts.

### **Question 3,4**

No comment.

### **Question 5**

In principal, we have no objection to a trade body taking a leading role in educating consumers in dealing with financial crime risks. However, we suppose that the first instinct will be to entrust the responsibility for this on a trade body which represents banks. However, there are increasingly a range of other trade bodies directly representing non bank PSP's, and these PSP's are having a growing role in meeting the needs of market.

We doubt whether the banking trade body would necessarily have the knowledge to reflect in its training approach the specific needs of non bank PSP customers. We think that it is important that, even if a banking trade body takes the lead in the customer education area, that there should be formal structures which allow non bank PSP to have an input into the training messages which are disseminated.

### **Question 6**

The AUKPI has always been willing to support a common approach to customer ID checks and risk verification. However, the banks have never been willing to discuss this issue, whilst at the same time they have used alleged deficiencies in financial crime compliance as a reason not to provide accounts to PSP, especially PI (the derisking/debanking agenda).

The AUKPI has carried out research in the impact of the debanking agenda on PI's and we supplied a summary of our research as part of our response to the draft PSR indirect access report, finally published in July 2016.

The PSR indirect access report confirms that the four main banks have closed 450 PI accounts in recent years.

The PSR report contains some interesting and useful data, but we do not agree with the conclusion, which does not do justice to the concerns we have expressed on behalf of so many of our members. It rather misses the point for the PSR to highlight choice, service quality and issues around switching providers if so many PI firms (which with 1150 firms, are, incidentally the largest group of PSP's mentioned in the report) are unable even to access the payment schemes in the first place because of the lack of a bank account. Issues such as service quality and the ability to switch providers are irrelevant to them.

Based on recent research carried out by the AUKPI, 62% of PI firms offering money remittance services do not have and can not get a UK bank account in their own name. A further 10% have access only to an office account, limiting their business. Only around 27% of firms have access to both a UK payments account and an office account, however in practice these are often restricted and therefore so are the PI's services. But frequently, even these firms only one have on banking partner, and can not find another – so they do not have total freedom to set the rates/fees as they would wish or to move their business away if the bank service proves unsatisfactory.

Any PI without its own bank account is forced to close down or find alternative ways of banking customers money. In practice this has meant that PI's have been forced to either become Agents of large PIs or use an intermediary provider.

Any PI which is obliged to use any kind of intermediary providers will inevitably have to bear the extra costs/fees involved making the firms uncompetitive. Many smaller money remittance firms are surviving, nothing more. Because of the lack of a level playing field and the concentration of business into only a small number of firms, consumers are denied choice on a range of sending corridors and many are turning to the unregulated market to send funds.

Nor is the situation much better for PI's who do have bank accounts. In many cases, they are not able to get accounts with UK banks. For example, only 50% of the PI firms in our survey which offer FX services have accounts with a UK bank, the rest are obliged to use accounts with banks elsewhere in the EU. This inevitably increases the cost of doing business, making the firms potentially uncompetitive to UK consumers.

Even if a firm is able to obtain a UK bank account, they are effectively then subject to 'bank capture', - many firms are not able to obtain any other bank account, so they are limited in their business activity and dependent on the rates/service their sole banking provider offers them. There is no sense that the firm can easily swap around to find an alternative banking provider – they are stuck with what they are given by the existing provider.

The major UK banks remain closed to new account applications for many types of PI applicant, not just remittance type providers, but they are also closed to many smaller FX providers.

Based on our survey, 92% of PI's (including both money remitters and FX providers) believe that the banks are failing to provide the 'unhindered access to payment accounts' which they are obliged to offer under article 36, PSD 2.

The PSR report does confirm that financial crime risks/concerns are an important factor for the banks in the decisions they take– but PSR has so far done nothing to make further enquiries from the banks on the risk appetite, or how the PI’s can put in place a level of controls so that these concerns are addressed.

AUKPI is trying to initiate a dialogue with the banking sector on the factors which are preventing PI’s getting accounts – including financial crime controls, but potentially other factors also (e.g. levels of capital). Despite best efforts of the British Bankers Association (BBA), only three meetings have been organised with the banking sector in last 12 months. No progress yet on the substantive issues, on customer ID or any other CDD issues.

In seeking to justify their decision to refuse accounts to PI’s, the banks have stated to the PSR that financial crime risks are a factor in their willingness to offer indirect access (and by extension, bank accounts) to PI’s. In itself, this admission is revealing, because the banks have rarely directly confirmed to the PI firms themselves why they are closing their accounts – still less have they allowed the firms to demonstrate how they comply with the law and to demonstrate that the concerns of the banks in this area are unfounded.

As we have discussed above, at a corporate level, the banks have been unwilling to meet with PI industry representatives in recent years to discuss and agree collective common standards around AML/CTF compliance with regulation, and if necessary, standards which go beyond what is required in law.

The AUKPI accepts that the PSR is not responsible for supervising systems which the banks put in place to monitor the financial crime risk of potential clients such as PI’s. However, in our view, it is not unreasonable for the PSR to monitor to what extent financial crime risk has been a factor in closing a PI account or refusing to open one in the first place. The PSR should ask the bank to make a report which explains why they are justified in closing or declining an account, with enough information to allow the regulator to determine whether the bank has acted fairly.

At the moment, we do not see any chance that banks will be willing to discuss financial crime controls strategically with the PSP sector, particularly PI’s.

We believe that one aspect of the problem is that the banking sector does not have confidence in (nor place reliance on) the AML supervisory approach which is exercised by HMRC in relation to MSB. As a result, the banks seem to view nearly all MSB as high risk, regardless of the particular AML controls which an individual PI has put in place to manage the risk.

The situation might improve if there was a single regulator for AML for both the banks and PSP. But there would be a need for legislation to create this single regulator.

### **Question 7**

In principal, we support a data sharing repository, whilst recognising that there would be data privacy issues to deal with. However, a data sharing repository would only be viable if all who contribute data (banks and PSPs) are agreed that it is possible to have reliance on the data that has been submitted by all parties (i.e. banks would have confidence in the CDD information on their customers provided by the PI).

A data repository would be of no benefit to the PI sector if their bank would choose not to have reliance. A bank would only have reliance if they had a clear steer/guidance from the FCA that this was allowable.

#### **Question 8**

As above, we support any initiatives for intelligence sharing around financial crime, but at present the strategy does not sufficiently acknowledge the barriers in the way of the easy sharing between banks and PSP's. At root, the fundamental difference may be in the way that banks and PI's are regulated for AML/CTF. Unless this divide is bridged, we can not see how data sharing that is mutually useful will be possible. And this is on top of the challenges to data sharing mentioned in section 6.22. We believe that new laws may be needed to address this problem.

#### **Question 9**

In principal, no objection to a central KYC utility, but the problems identified above still apply.

#### **Question 10**

In principal, no objection. But efforts to encourage a standardised approach across banks and PI's may result in a common software standard. Will this in turn result in the creation of one or two standard software packages for sanction checking, which may be priced at a level which, whilst acceptable to banks, may be prohibitively expensive for PI's? In effect, this could be a factor which serves to further exclude smaller players and new market entrants.

#### **Question 11**

Our members are not aware of *'the work that Basics has commenced, in its role as operator of Bank Reference Data, to make available a new 'utility' sort code range'*. We support any efforts that are being made to enable PI firms to obtain a sort code, but we have, as yet, seen no efforts by any provider of sort codes to engage with our sector. Any assistance that PSF can provide to encourage this collaboration would be welcomed. In particular, we would need further information on cost issues. Will it be prohibitively expensive for smaller PI's to obtain a sort code?

#### **Question 12**

In relation to settlement accounts, we refer to the comments we have previously made to the PSR further to the launch of their final report on indirect access, specifically their report states: *'The Bank of England has announced that it will be extending settlement account access to non-bank PSPs, which means more PSPs will have the option of direct access. Further, four new PSPs are scheduled to become direct PSPs in the Faster Payments Scheme (FPS) by the end of the year, showing that direct access is already becoming an option for a greater number of PSPs.'*

In response the AUKPI comments that the BOE has not announced it will be extending settlement account access to non-banks PSPs. It has issued an "RTGS blueprint progress update" in which it states that it "intends, over time" to do this and once a new RTGS is in place. The blueprint of the new RTGS will only be issued in 2017, so the new system is unlikely to be in place before 2019. Even then, the BOE intends to require high resilience from non-bank PSPs, which implies a price tag in the

£millions, an accreditation process of a duration similar to that required even for indirect membership of FPS, and a go-live no earlier than 2020.

The price tag for becoming a direct member of FPS remains in the £millions. No new PSPs are yet live under Direct Technical Access/indirect membership, for which we understand the price tag to be lower – around £1 million – but still to require an accreditation process that costs an additional £1 million and takes on year.

So we have a possible access to settlement accounts from 2020, and options for FPS that cost £1-several millions and an extra £1million/1 year on top of either figure.

None of this represents a realistic solution for our members or an alleviation of their problems.

### **Question 13**

In relation to aggregator models, we further responded to the PSR after the launch of their report on indirect access where they stated as follows: *'FPS has announced that five companies have now gained accreditation to provide direct technical access to FPS via the new aggregator model, providing more options for PSPs to have direct technical access'*

In response the AUKPI stated that this is a not a solution attractive to PIs in the forms that are becoming available, noting that no PSP is yet live on any of it.

These accreditations correlate to supporting Direct Technical Access/indirect membership for FPS only (cost £1 million investment and £1million/1 year accreditation); BACS and other payment systems are not part of the solution.

Some of these companies are talking about, in future, (i) offering a model which requires no accreditation, a low start-up fee and a higher per-transaction fee, still for FPS only and (ii) widening the outcomes of that beyond FPS to BACS, SWIFT, SEPA.

This starts to become attractive to PIs as long as the business model is similar to entry-level SWIFT membership (EUR10,000 one-off joining fee, a traffic fee for messages sent, and a fully-hosted solution on which to access the three SWIFT circuits of FIN, FileAct and InterAct via an API).

These solutions are at least 12-18 months down the line and represent ones that start to come within the budget of our members, because the currently offered ones do not.

Nor are they useful in themselves without a banking partner.

### **Question 14, 15, 16**

Support in principal, but observations in 12,13 above still apply.

**Question 17**

In principal, we support efforts to develop indirect access liability guidance. However, such guidance will only have value if it is endorsed and supported by multiple stakeholders, including banks, PI's and regulators (especially the FCA). We continue to be struck by the reluctance of the FCA to come forward with new guidance which will help banks and PI's to address the derisking/debanking problem.

We note that (in the words of the PSR) *'The FCA has published research into the drivers and impacts of de-risking, which helps to inform the debate around the underlying causes and ways of addressing this issue'*

In the view of the AUKPI, this research has not moved the market.

**Question 18**

We support initiatives towards a common standard around an API for payment processors.

**Question 19, 20**

In principal agree.

**Question 21**

We think that the proposals set down in the report do not indicate any sense of urgency. Many of our member PI's are looking to policy makers and regulators to recognise that at present, despite being regulated, they are excluded from being able to meet the needs of consumers (indeed, are excluded from fair access to payment systems because they do not have a bank account).

The reasons for this appear to be concerns which banks appear to have around the financial crime controls with PSP, but there is no obvious transparency from the banks on this point.

In the absence of action from other stakeholders (policy makers, regulators, banks), many smaller PI's are still unable to offer payment services on level playing field. And, indeed, many may no longer be able to continue in business at all if the access to bank accounts issue (which the AUKPI has detailed extensively to the PSR in previous submissions) is not addressed.

**Question 22**

No comment.

**Question 23**

No comment.