

## **Including payment institutions as ‘participants’ under the Settlement Finality Regulations**

**HM Treasury**

**RPC rating: confirmed as a non-qualifying regulatory provision**

### **Description of proposal**

The proposed measure will bring payment institutions (PIs) - non-bank payment service providers such as some ‘fintech’ firms – within the scope of the Settlement Finality Regulations. This will allow PIs to participate in central bank settlement at the Bank of England and become members of the main UK retail payment systems. Currently, they must enter ‘agency arrangements’ with member banks to gain indirect access to payment systems. The measure will extend current regulation to include PIs but is permissive for these businesses.

An entity must be considered a ‘participant’ under the Regulations in order to possess a central bank settlement account and become a direct member of a retail payment system. PIs cannot make payments on behalf of their customers in their own right unless they have access to payment systems. The Regulations stop financial transactions made within a payment system from being unwound if a participant becomes insolvent. Payment systems require this protection in order to function.

The department states that the objective of this policy is to promote competition in the UK payments market.

### **Impacts of proposal**

The department anticipates that operating costs for PIs will fall if they gain direct access to retail payment systems. Furthermore, current agency arrangements give member banks significant power over PIs, who are their direct competitors in this market. The department believes that bringing PIs within scope of the Regulations will allow them to compete more effectively in the UK payments market. It believes this will increase consumer choice.

The department states – incorrectly - that this measure will not place any additional financial, regulatory or administrative costs on business. In fact, there will be both costs and benefits, but – as it also argues - the measure is permissive. PIs will only become direct members of UK retail payment systems and participate in central

bank settlement if it is economically beneficial for them to do so.. However, banks and PIs will agree to this potential outcome when applying to become a participant.

Likewise, neither payment systems nor banks are obliged to allow PIs access to their systems. The department assumes it is commercially advantageous for them to do so. This means that there may be costs to existing banks and payment systems as a result of PIs choosing to leave such systems. However, these costs are a result of improving competition and are assumed to be outweighed by benefits overall.

As the proposal is pro-competitive, it is a non-qualifying regulatory provision.

### Quality of submission

The department has provided sufficient information to support the assessment of the proposal as a pro-competitive non-qualifying regulatory provision that imposes no compulsory additional impacts on businesses.

The department has provided sufficient evidence that the measure satisfies the four pro-competition criteria. It appears reasonable that the measure will increase the number and/or range of sustainable suppliers and will strengthen the ability of suppliers to compete. It is also reasonable to conclude that there will be a net social benefit to consumers and that promoting competition is a core purpose of the measure.

The department states that this is a permissive measure. The department has satisfactorily justified the qualification as a permissive change, and expects that businesses would only seek membership if this leads to net benefits for them.

However, the department has not monetised the costs and benefits of regulation to PIs. The assessment would have benefited from providing greater detail of the expected costs and benefits to PIs of membership, in particular the broader impacts of the measure. The assessment would also have benefited from an explanation of whether these costs are direct or indirect, and from a clearer consideration of the impacts on existing players in the payments market.

### Departmental assessment

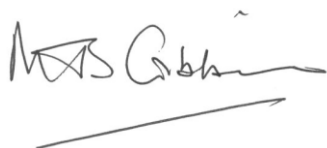
Classification	Non-qualifying regulatory provision (pro-competition)
Equivalent annual net direct cost to business (EANDCB)	Not applicable (low cost non-qualifying regulatory provision)

### RPC assessment

Opinion: non-qualifying regulatory provision confirmation  
Origin: domestic  
RPC reference number: RPC-3507(1)-HMT  
Date of implementation: 2017/18

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Classification	Non-qualifying regulatory provision (pro-competition)
Small and micro business assessment	Not required (low cost regulation)



**Michael Gibbons CBE**, Chairman