



HM Treasury

# A Streamlined Approach to Payment Systems Regulation

## **Consultation**

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September 2025



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# Chapter 1

## Introduction

### Context

**1.1** Having a strong and vibrant payments sector is vital for economic growth. The ability to make and receive payments is essential to our daily lives, and underpins commerce, trade and all economic activity. The government's National Payments Vision<sup>1</sup> sets out its ambition to ensure the UK has a trusted, world-leading payments ecosystem delivered on next generation technology, where consumers and businesses have a choice of payment methods to meet their needs.

**1.2** This requires a clear, predictable and proportionate regulatory framework which promotes competition, innovation and security. The UK has a well-developed regulatory environment for financial services, with responsibility for payments being shared between the Payment Systems Regulator (PSR), the Financial Conduct Authority (FCA), the Bank of England and the Prudential Regulation Authority (PRA).

**1.3** Since its establishment in 2015, the PSR has played an important role in promoting competition and innovation in payment systems, and ensuring that payment systems are operated and developed in the interests of the people and businesses that use them. This has included significant work to open up access to payment systems, advance Open Banking and introduce protections against fraud.

**1.4** The government considers promoting competition, innovation and the interests of service-users (which includes, for example, merchants and consumers) to be important elements of an effective regulatory framework for payment systems and is committed to retaining these going forward. This government is also committed to high standards of consumer protection and ensuring that people and businesses can make payments efficiently and safely. In recent times, a substantial threat to this has been the rise of fraud. Fraud causes huge economic damage through losses and through the undermining of trust in key commercial enterprises, including our payments ecosystem. The government is committed to working with law enforcement and industry to better protect the public and businesses from this appalling crime, and will work closely with all sectors to deliver its manifesto commitment of a new fraud strategy.

**1.5** To deliver its vision for UK payments, the government wants to see an evolution of this framework and move to a more streamlined regulatory environment. The government considers that moving

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<sup>1</sup> HM Treasury, National Payments Vision: <https://www.gov.uk/government/publications/national-payments-vision>

forward this will help to support growth, better manage burdens on businesses and minimise overlaps between regulators' responsibilities. This ambition requires a rethink of existing regulatory structures for payment systems so that firms can focus more of their resources on delivering valuable services and innovations that support the government's central mission to drive economic growth.

**1.6** That is why in March, earlier this year, the government announced its intention to abolish the PSR and consolidate its functions primarily within the FCA. Since then, the government has undertaken further work, including engagement with financial services regulators, members of the financial services sector and others, to develop proposals.

**1.7** The government is now consulting on proposals for how it will move all of the PSR's functions into the FCA. This will see the FCA take on the PSR's responsibilities, including for promoting competition and innovation in payment systems and the services provided by payment systems, as well as supporting the interests of consumers and businesses who make payments every day. Integrating the PSR into the FCA will streamline the regulatory environment, helping to improve coherence and coordination in decision-making and reduce duplication across regulators.

**1.8** Ahead of transitioning to a new streamlined framework, the PSR and FCA are already making arrangements to ensure operational readiness for implementing the integration. Building on previous collaboration, the two authorities are also working even closer together to ensure they take a coordinated approach under the current framework, helping to realise the benefits of a more streamlined regulatory regime as soon as possible. This includes:

- **Creating a new FCA Executive Director role for Payments and Digital Finance** that includes responsibility for both FCA Payments and as Managing Director of the PSR.
- **Updating the Memorandum of Understanding between the PSR, FCA, Bank of England and PRA** required under section 99 of the Financial Services (Banking Reform) Act 2013 (FSBRA 2013) to enhance co-ordination and support even closer working.<sup>2</sup>
- **Jointly progressing Open Banking**, including by establishing a joint steering Group to drive forward the work on variable recurring payments, supporting pace and clarity.
- **Working together with the Bank of England and HM Treasury through the Payments Vision Delivery Committee** to drive delivery of the government's National Payments Vision.

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<sup>2</sup> "Financial Services (Banking Reform) Act 2013: Memorandum of Understanding between the Bank of England, the Financial Conduct Authority, the Payment Systems Regulator and the Prudential Regulation Authority": <https://www.fca.org.uk/firms/roles-responsibilities-payments-regulation>

- **Undertaking joint stakeholder engagement** to support coherence and ensure stakeholders get clear, joined up messages.
- **Building closer joint working on horizon-scanning** to support forward looking priorities, and creating joint project teams on areas of mutual interest to bring together perspectives across the authorities.

1.9 The government welcomes these steps and the support it has received from the PSR and FCA to inform this consultation.

1.10 The integration of the PSR into the FCA is part of a wider multifaceted approach that is being advanced by government and public authorities to create a more agile regulatory environment, enhance the retail payments ecosystem and support the digitalisation of wholesale financial markets. As set out in the Financial Services Growth and Competitiveness Strategy<sup>3</sup>, this includes establishing an innovative new model to design and deliver the next generation of retail payments infrastructure<sup>4</sup> and modernising the legislative framework for the regulation of payment services and e-money, among other initiatives.

1.11 By the end of the year, the government and public authorities, via the Payments Vision Delivery Committee, will publish a Payments Forward Plan, which will provide a sequenced plan of future initiatives across the ecosystem, including initiatives in both retail and wholesale payments, and the role of digital assets.

1.12 These steps will help to deliver a trusted and world-leading payments ecosystem with a clear vision, strong leadership and a more agile regulatory framework. This will support the growth of the sector – strengthening the foundations to support industry innovation and enable the UK to seize the benefits of next generation technologies.

## Overarching aims and principles

1.13 In line with the Regulatory Action Plan<sup>5</sup>, the government's goal through the integration of the PSR into the FCA is to deliver a regulatory framework that:

- **Supports growth:** The regulatory framework should encourage competition, innovation and growth. When regulation is designed well, and implemented well by regulators, it can

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<sup>3</sup> HM Treasury, Financial Services Growth and Competitiveness Strategy:  
[https://assets.publishing.service.gov.uk/media/687e612692957f2ec567c621/Financial\\_Services\\_Growth\\_Competitiveness\\_Strategy\\_final.pdf](https://assets.publishing.service.gov.uk/media/687e612692957f2ec567c621/Financial_Services_Growth_Competitiveness_Strategy_final.pdf)

<sup>4</sup> HM Treasury, Payments Vision Delivery Committee Update:  
<https://www.gov.uk/government/publications/national-payments-vision/payments-vision-delivery-committee-update>

<sup>5</sup> HM Treasury, A new approach to ensure regulators and regulation support growth:  
<https://www.gov.uk/government/publications/a-new-approach-to-ensure-regulators-and-regulation-support-growth>



protect users, such as merchants and consumers, while supporting investment and growth.

- **Is targeted and proportionate:** Regulation should be used where necessary and allow space for discretion and good behaviour, recognising that in most cases businesses operate in a responsible and sensible manner. The regulatory framework should also be responsive to how firms operate and make space for a variety of business models to thrive.
- **Is transparent and predictable:** To foster the certainty essential for growth, it is vital that the regulatory framework is stable, predictable and consistent. Where regulations need to adapt over time; government and regulators must be clear about where that is the case and give businesses the necessary time to adapt.
- **Adapts to keep pace with innovation:** The regulatory framework must allow the UK to take advantage of new technologies and innovations, and support international competitiveness. Effective regulation can create the environment and clarity for innovation to take place.

1.14 The new regulatory framework will be shaped with the full diversity of the sector in mind, from established payment operators to emerging FinTech firms, and from service providers to the merchants and consumers who use payment systems and services every day. The government also recognises that clarity matters, which is why it is committed to moving at pace to set out the future regulatory framework, giving regulators and industry the certainty they need to plan ahead and continue driving progress.

## Overview of this consultation

1.15 This consultation document sets out details of the government's proposed policy approach for how it will integrate the PSR's functions within the FCA. In broad terms, the government is proposing to integrate these functions within the FCA's current framework in the Financial Services and Markets Act 2000 (FSMA 2000) to the extent this is practicable – reflecting the benefits of an integrated and joined up approach. Where that is not practicable, the government expects the relevant functions would be set out in a new part of FSMA 2000.

1.16 The consultation sets out the government's approach to the core design decisions for the new regulatory framework, including the role of the FCA alongside other relevant public authorities and the FCA's proposed future objectives and powers in relation to payment systems, among other key features. The government is not consulting on all the issues associated with the consolidation, but on core design decisions where it would be most useful to receive stakeholder feedback.

1.17 The government is seeking views from interested parties on the questions posed in this document and welcomes evidence that may inform the assessment of impacts. The government will carefully

consider the responses it receives to this consultation and use them to inform decisions on its final policy. Legislation will be brought forward to implement the government's final policy when Parliamentary time allows. The government looks forward to receiving responses on the proposals set out in this document.

# Chapter 2

## **Roles and responsibilities of the regulators**

**2.1** Today, in general terms, the PSR serves as the UK's economic regulator for payment systems. Economic regulation seeks to develop and protect competitive markets where possible and contribute to the creation of market conditions in which innovation thrives and service-users' interests are protected. The UK's legislative regime for regulation of payment systems by the PSR is set out in Part 5 of FSBRA 2013. The government continues to see an important role for regulation of payment systems and is of the view that this should remain part of the new regulatory framework.

**2.2** As the government set out in its National Payments Vision, a competitive and dynamic payments ecosystem is vital for a strong economy. Payment systems allow money to flow through the economy, enabling the exchange of value on which economic activity relies. However, payment systems can face competition issues, driven by factors such as strong network effects, which can lead to the ecosystem being dominated by a limited number of large players, and co-ordination challenges, which can make change difficult. It is important that the UK has a regulatory framework that is equipped to protect against these issues and promotes an open, diverse and innovative payments sector to support economic growth and deliver good outcomes for consumers and businesses.

**2.3** Therefore, the government will transfer the PSR's responsibility for regulation of UK payment systems to the FCA by moving the PSR's functions into the FCA. This will see the FCA take on the PSR's responsibilities, including for promoting competition and innovation in payment systems and the services provided by payment systems, as well as supporting the interests of consumers and businesses who make payments every day. The government is proposing to do this by integrating the PSR's functions within the FCA's current framework in FSMA 2000 to the extent this is practicable. Where that is not practicable, the government expects the relevant functions would be set out in a new part of FSMA 2000.

**2.4** This chapter sets out details on this proposal and how the government envisages the FCA's new role would sit alongside its

existing regulatory responsibilities and those of other relevant public authorities.

## The current regulatory framework

**2.5** In the current regulatory framework, responsibility for regulating the payments ecosystem in the UK is shared between the PSR, the FCA, the Bank of England and the PRA. Each authority has a different mandate in relation to payment systems and regulates various aspects of payments activity. In broad terms:

- The PSR is the economic regulator for payment systems in the UK. It regulates payment systems designated by HM Treasury<sup>6</sup> in accordance with Part 5 of FSBRA 2013 and the participants in those designated systems, which includes operators of payment systems, infrastructure providers and payment service providers<sup>7</sup>.
- The FCA is the conduct regulator for firms that provide regulated payment services in the UK, including those that are authorised persons under FSMA 2000, such as banks and building societies. It is also responsible for the authorisation, registration and prudential supervision of payment and e-money institutions. Its role focuses on ensuring that payment services are safe, fair and work well for consumers and businesses, and contribute to a thriving economy.
- The Bank of England is responsible for ensuring that payment systems are robust, secure and support the smooth functioning of the economy. It supervises payment systems and related service providers that have been recognised by HM Treasury<sup>8</sup> as systemically important in the UK and related service providers in accordance with Part 5 of the Banking Act 2009. The Bank is also the operator of the UK's Real Time Gross Settlement (RTGS) System and CHAPS payment system.
- The PRA is responsible for the prudential regulation and supervision of banks, building societies, credit unions, insurers and major investment firms ("PRA-authorised firms"). Under FSMA 2000, the PRA's general objective is to promote the safety and soundness of PRA-authorised firms.

**2.6** Further information on the roles and responsibilities of the authorities and how they coordinate exercising their relevant functions

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<sup>6</sup> The following payment systems are designated by HM Treasury: Faster Payments System, Bacs, Cheques and Credit, LINK, Mastercard, VISA (Europe), CHAPS, and Sterling Finality Payment System.

<sup>7</sup> The definitions of "operators of payment systems", "infrastructure providers" and "payment service providers" are found in section 42 of the Financial Services (Banking Reform) Act 2013: <https://www.legislation.gov.uk/ukpga/2013/33/contents>

<sup>8</sup> The following payment systems and service providers are recognised by HM Treasury: Bacs, Faster Payments System, Visa (Europe), CLS, CREST, LCH Ltd, ICE Clear Europe, LINK, Mastercard (Europe S.A), Sterling Finality Payment System, and Vocalink.

in relation to UK payments is set out in their Memorandum of Understanding<sup>9</sup>, which was updated by the authorities in June 2025.

**2.7** A strength of the current regulatory framework is that it provides a functional separation between regulatory roles and responsibilities, allowing each authority to specialise and focus on their respective objectives. However, it can also mean that in practice participants in payment systems can often be regulated by more than one authority for different purposes and activities. This can result in additional regulatory burdens on those participants, and create overlap and duplication between the work of public authorities, particularly between the PSR and FCA.

**2.8** The government's intention to move to a more streamlined regulatory framework with a reduced number of regulators is an opportunity to address these issues, helping to better manage the impacts of regulation on the payments sector, while ensuring that regulation remains effective.

## **The government's approach to the new regulatory framework**

**2.9** In the new regulatory framework, the PSR's responsibility for the regulation of UK payment systems will be transferred to the FCA. The government is proposing to do this by integrating the PSR's functions within the FCA's current framework in FSMA 2000 to the extent this is practicable, reflecting the benefits of a joined up and integrated approach to this consolidation exercise. Where that is not practicable, the relevant functions would likely be set out in a new part of FSMA 2000.

**2.10** The government considers the FCA to be best placed to take on this role. The FCA has deep experience of regulating financial services and already regulates many payments firms. It also has close operational ties with the PSR and many areas of common regulatory interest. The FCA is well versed in considerations of competition, innovation and the interests of consumers and businesses due to its wider role as a regulator for financial services. Indeed, the FCA already has competition powers concurrently exercised with the Competition and Markets Authority (CMA).

**2.11** Under the government's proposed approach, the transfer of the PSR's functions to the FCA will not result in new categories of persons being brought in scope of payment systems regulation. Instead, the FCA's payment systems regulatory regime would apply to the same categories of persons as the PSR's regime in FSBRA 2013 does today. This means that the FCA's regime would apply to payment systems and the participants in those systems – payment system operators, infrastructure providers and payment service providers. The

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<sup>9</sup> "Financial Services (Banking Reform) Act 2013: Memorandum of Understanding between the Bank of England, the Financial Conduct Authority, the Payment Systems Regulator and the Prudential Regulation Authority": <https://www.fca.org.uk/firms/roles-responsibilities-payments-regulation>

government considers it important for each of these categories of persons to remain in scope of payment systems regulation for the FCA to be able to promote competition, innovation and the interests of service-users in payment systems effectively, as the PSR currently does.

**2.12** Alongside this, the FCA would continue to perform its wider role as a conduct and prudential regulator, including its existing functions in relation to payment services and e-money legislation, as it does today. The government is not seeking to alter these functions, or expand or reduce the FCA's remit in relation to these functions, as a consequence of integrating the PSR into the FCA. This means that conduct and prudential regulations that currently exist under FSMA 2000, the Payment Services Regulations 2017 and the Electronic Money Regulations 2011 will not apply to any new category of person as a result of integrating the PSR into the FCA. Any changes to this legislation will be considered as part of plans to modernise and future proof payments assimilated law, as set out in the Financial Services Growth and Competitiveness Strategy<sup>10</sup>.

**2.13** The government does not consider it appropriate to apply FSMA-style conduct and prudential regulation based on an authorisations process to payment systems or participants in a payment system who are not in scope of this type of regulation today. Moving to this model would be a significant change in approach. The government considers it preferable to retain the approach used in the current framework of designating payment systems because it facilitates more targeted regulation. Through a designation regime the government can ensure that regulation is targeted at the UK's largest and most significant payment systems, while allowing smaller systems to operate without being subject to additional requirements. This supports proportionality and helps to minimise regulatory burdens on the sector (see below for more details on the government's proposed approach on retaining a designation regime in the new framework).

**2.14** As such, there will be no new regulated activity created in connection with payment systems regulation and therefore no new categories of person requiring Part 4A permission under FSMA 2000 to carry on any new regulated activity as a result of moving the PSR's functions into the FCA. Instead, the scope of payment systems regulation would broadly continue to be determined by which payment systems HM Treasury decides to designate. For example, in the proposed new regime a pure operator of a designated payment system, who does not carry out any regulated activity under FSMA 2000, would not need to obtain Part 4A permission, or authorisation and registration under the Payment Services Regulations 2017 and the Electronic Money Regulations 2011.

**2.15** Regarding other public authorities, the roles and responsibilities of the Bank of England and PRA in relation to payments will not change

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<sup>10</sup> For further details, see page 34 of the Financial Services Growth and Competitiveness Strategy: [https://assets.publishing.service.gov.uk/media/687e612692957f2ec567c621/Financial\\_Services\\_Growth\\_Competitiveness\\_Strategy\\_final.pdf](https://assets.publishing.service.gov.uk/media/687e612692957f2ec567c621/Financial_Services_Growth_Competitiveness_Strategy_final.pdf)

in the new regulatory framework. They will continue to perform the functions they do today. As part of the new framework, the government intends for the Bank of England and PRA to have a power to require the FCA not to exercise its payment system regulation functions where certain criteria are met to reflect the substance of their existing veto powers over the PSR in Part 5 of FSBRA 2013<sup>11</sup>.

**2.16** The government's view is that the approach outlined above retains the benefits of having functional separation between the responsibilities of the regulatory authorities, while simplifying the regulatory landscape by reducing the number of regulators. In broad terms, under the new framework for payment systems regulation, conduct and economic regulation would be the responsibility of the FCA, prudential regulation would be the responsibility of the PRA and FCA, and financial stability would be the responsibility of the Bank of England. The government's expectation is that this will result in a clearer and more coherent regulatory framework with fewer frictions for firms.

**2.17** To make the government's proposals for the new framework a success, it will continue to be crucial for the FCA, the Bank of England and PRA to work in close partnership when exercising their respective functions in a coordinated way to foster an efficient and effective regulatory environment.

**2.18** The government notes that under today's framework the PSR, FCA, Bank of England and PRA are required to prepare and maintain a Memorandum of Understanding in relation to payments regulation<sup>12</sup>. This describes the role of each authority and how the authorities intend to coordinate the exercise of their relevant functions.

**2.19** The government will seek to ensure there are appropriate arrangements in the new framework to foster effective collaboration between the relevant authorities that delivers good outcomes for the payments ecosystem and supports UK economic growth.

## Designation

**2.20** In the current framework, a designation regime is used to bring payment systems in scope of regulation by the PSR<sup>13</sup>.

**2.21** Part 5 of FSBRA 2013 gives HM Treasury a power to by order designate a payment system as a regulated payment system. It specifies that HM Treasury may designate a payment system only if they are satisfied that any deficiencies in the design of the system, or any disruption of its operation, would be likely to have serious consequences for those who use, or are likely to use, the services

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<sup>11</sup> For further details, see sections 100 and 102 of the Financial Services (Banking Reform) Act 2013: <https://www.legislation.gov.uk/ukpga/2013/33/contents>

<sup>12</sup> For further details, see sections 98 to 102 of the Financial Services (Banking Reform) Act 2013: <https://www.legislation.gov.uk/ukpga/2013/33/contents>

<sup>13</sup> For further details on the process for designating payment systems, see sections 43 to 48 of the Financial Services (Banking Reform) Act 2013: <https://www.legislation.gov.uk/ukpga/2013/33/contents>

provided by the system. Part 5 also sets out criteria to which HM Treasury must have regard when considering whether to make a designation order in respect of a payment system. These criteria are:

- the number and value of the transactions that the system presently processes or is likely to process in the future,
- the nature of the transactions that the system presently processes or is likely to process in the future,
- whether those transactions or their equivalent could be handled by other payment systems, and
- the relationship between the system and other payment systems.

**2.22** The procedures which HM Treasury must follow to make, amend or revoke a designation order are also set out in Part 5.

**2.23** The government's view is that the approach to designation in FSBRA 2013 generally works well, and that the right payment systems are currently designated. The government intends for all designated payment systems that are regulated by the PSR today to continue to be regulated and transferred over to the FCA's oversight once it takes on the PSR's functions. As stated above, the government considers a designation regime to remain preferable to an alternative model, such as an authorisation regime, as can be found in FSMA 2000, because it facilitates more targeted regulation. Through a designation regime the government can ensure that regulation is targeted at the UK's largest and most significant payment systems, while allowing smaller systems to operate without being subject to additional requirements. This supports proportionality and helps to minimise regulatory burdens on the sector.

**2.24** Therefore, the government is proposing to retain the use of a designation regime in the new framework to bring payment systems in and out of scope of the FCA's oversight.

### **Box 2.A Questions for respondents**

1. Do you agree with the government's proposal to seek to integrate the PSR's functions within the FCA's current legislative framework as set out above and to the extent practicable? If not, please explain why.
2. Do you agree with the government's proposal to retain a designation regime in the new regulatory framework? If not, please explain why.



# Chapter 3

## Regulatory objectives

**3.1** This chapter sets out the government's proposed approach on statutory objectives for the FCA when it acts in relation to payment systems.

### The current regulatory framework

**3.2** In the current framework, when the PSR discharges its general functions it must, so far as is reasonably possible, act in a way which advances one or more of its three statutory objectives. These are referred to as the competition objective, the innovation objective and the service-user objective. They are:

- To promote effective competition in the market for payment systems and the markets for services provided by payment systems in the interests of those who use, or are likely to use, services provided by payment systems. This objective includes a list of matters to which the PSR may have regard in considering the effectiveness of competition in a market.
- To promote the development of, and innovation in, payment systems in the interests of those who use, or are likely to use, services provided by payment systems, including in particular the infrastructure used to operate them, with a view to improving the quality, efficiency and economy of payment systems.
- To ensure that payment systems are operated and developed in a way that takes account of, and promotes the interests of those who use, or are likely to use, services provided by payment systems.

**3.3** The PSR must also, in discharging its general functions, have regard to the importance of maintaining the stability of, and confidence in, the UK financial system; the importance of payment systems in relation to the performance of functions by the Bank of England in its capacity as a monetary authority; and a number of regulatory principles, which are set out in section 53 of FSBRA 2013. These regulatory principles are:

- The need to use the resources of the PSR in the most efficient and economic way.
- The principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which

are expected to result from the imposition of that burden or restriction.

- The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term, including in a way consistent with contributing towards achieving compliance by the Secretary of State with section 1 of the Climate Change Act 2008 (UK net zero emissions target) and section 5 of the Environment Act 2021 (environmental targets) where the PSR considers the exercise of its functions to be relevant to the making of such a contribution.
- The general principle that those who use services provided by payment systems should take responsibility for their decisions.
- The responsibilities of the senior management of persons subject to requirements imposed by or under Part 5 of FSBRA 2013, including those affecting persons who use services provided by payment systems, in relation to compliance with those requirements.
- The desirability where appropriate of the PSR exercising its functions in a way that recognises differences in the nature of, and objectives of, businesses carried on by different persons subject to requirements imposed by or under Part 5 of FSBRA 2013.
- The desirability in appropriate cases of the PSR publishing information relating to persons on whom requirements are imposed by or under Part 5 of FSBRA 2013, or requiring such persons to publish information, as a means of contributing to the advancement by the PSR of its payment systems objectives.
- The principle that the Payment Systems Regulator should exercise its functions as transparently as possible.

**3.4** The government's view is that these are broadly the right set of objectives and "have regard" requirements for regulation of UK payment systems, and that they have worked mostly well in the current regime. They have enabled the PSR to undertake important work that has benefitted the ecosystem as a whole. This includes, for example, opening up access to payment systems which has facilitated a more diverse and dynamic market with a wider range of participants, technologies and business models that can better serve the interests of consumers and businesses.

## **The government's approach to the new regulatory framework**

**3.5** Therefore, the government is proposing that in the new regulatory framework the FCA should have objectives for when it acts in relation to payment systems that are equivalent in scope and substance to what the PSR currently has. This means the FCA would have objectives that reflect the PSR's competition, innovation and service-user objectives in FSBRA 2013.

**3.6** The government is proposing to do this by integrating the substance of the PSR's FSBRA objectives within the FCA's current framework in FSMA 2000 to the extent this is practicable. The government is considering the best approach to achieve this outcome, including if the FCA's current operational objectives can be expanded to have equivalent effect or if the FCA may require new objectives. Through this exercise the government will consider the appropriateness of each operational objective in relation to payment systems.

**3.7** As part of the integration, the government is also proposing to apply the FCA's strategic objective<sup>14</sup> and the competitiveness and growth secondary objective<sup>15</sup> to payment systems, with any modifications as may be necessary. The government considers these to be compatible with its policy objectives for UK payment systems and useful in supporting the FCA to promote desirable outcomes.

**3.8** Lastly, the government is proposing that the FCA should have "have regard" requirements in the new framework that are equivalent in scope and substance to what the PSR currently has in FSBRA 2013. This means when the FCA acts in relation to payment systems it would be required to have regard to the importance of maintaining the stability of, and confidence in, the UK financial system, the importance of payment systems in relation to the performance of functions by the Bank of England in its capacity as a monetary authority, as well as regulatory principles that reflect those found in section 53 of FSBRA 2013. The government is considering the best approach to achieve this outcome, including if provisions in the FCA's current framework in FSMA 2000 can be expanded to have equivalent effect or if new provisions may be required.

**3.9** Regarding regulatory principles more broadly, the government is separately consulting on wider changes to the regulatory principles of the FCA and PRA, including a proposal to change regulatory principles from "day to day" principles to something that each regulator must consider in the round at a strategic level. If the government decides to go ahead with this proposal, the FCA would consider any regulatory principles when it acts in relation to payment systems as part of this wider strategy.

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<sup>14</sup> "The FCA's strategic objective is: ensuring that the relevant markets function well." For further details, see Section 1B of the Financial Services and Markets Act 2000: <https://www.legislation.gov.uk/ukpga/2000/8/section/1B>

<sup>15</sup> "The FCA's competitiveness and growth secondary objective is: facilitating, subject to aligning with relevant international standards (a) the international competitiveness of the economy of the United Kingdom (including in particular the financial services sector), and (b) its growth in the medium to long term." For further details, see Section 1EB of the Financial Services and Markets Act 2000: <https://www.legislation.gov.uk/ukpga/2000/8/section/1EB>

### **Box 3.A Questions for respondents**

3. Do you agree the FCA should have objectives and “have regard” requirements in relation to payment systems that are equivalent in scope and substance to the PSR’s in FSBRA as set out in the above? If not, please explain why.
4. Do you agree with the government’s proposal to integrate these objectives and “have regard” requirements within the FCA’s current legislative framework as set out in the above and to the extent practicable? If not, please explain why.
5. Do you agree with the government’s proposal to apply the FCA’s strategic objective and competitiveness and growth secondary objective when it acts in relation to payment systems? If not, please explain why.

# Chapter 4

## Regulatory powers

**4.1** This chapter sets out the government's proposed approach on the regulatory powers of the FCA when it acts in relation to payment systems.

### The current regulatory framework

**4.2** The PSR as it exists today has a broad set of regulatory powers. These powers are located in Part 5 of FSBRA 2013 and apply to payment systems and the participants in those systems, which includes operators of payment systems, infrastructure providers and payment service providers.

**4.3** The PSR's powers can be grouped into three broad categories: regulatory and competition, enforcement, and information and investigation. In broad terms, they include:

#### Regulatory and competition powers

- A power to give general or specific directions to participants in regulated payment systems.
- A power to require the operator of a regulated payment system to establish, change or not change rules for the operation of the system.
- A power to require the granting of access to regulated payment systems on application of a prospective payment service provider.
- A power to require participants to vary certain agreements relating to regulated payment systems, including agreements about access and fees, on application of a party to an in-scope agreement.
- A power to require the disposal of an interest in an operator of a regulated payment systems or infrastructure provider in relation to such system.
- Concurrent powers over payment systems with the Competition and Markets Authority under Part 4 of the Enterprise Act 2002 (market studies and market investigation references) and Part 1 of the Competition Act 1998 in relation to participation in payment systems.

## **Enforcement powers**

- A power to publish details of compliance failures<sup>16</sup> by participants and details of sanctions.
- A power to impose financial penalties for compliance failures.
- An ability to apply to the court for an injunction to prevent a compliance failure from occurring or from continuing where the occurrence or continuation is reasonably likely.

## **Information and investigation powers**

- A power to obtain and retain certain information or documents.
- A power to require or appoint a person to provide the PSR with a report.
- A power to appoint persons to conduct investigations on its behalf into the nature, conduct or state of the business of any participant, or into a potential compliance failure.
- An ability to apply to a justice of the peace to obtain a warrant authorising a constable to enter and search certain premises.
- An ability to certify to the court that persons have failed to comply with requirements that it has imposed and for the court to treat that person as if they were in contempt.

**4.4** The government's view is that these are a robust set of powers that remain useful and appropriate for the purposes of regulating UK payment systems.

## **The government's approach to the new regulatory framework**

**4.5** Therefore, the government is proposing that in the new framework the FCA should have powers for when it acts in relation to payment systems that are broadly equivalent in scope and substance to what the PSR currently has.

**4.6** The government is proposing to do this by integrating the substance of the PSR's FSBRA powers within the FCA's current framework in FSMA 2000 to the extent this is practicable. Where that is not practicable, the government expects the relevant provisions would be set out in a new part of FSMA 2000.

**4.7** The government is considering the best approach to achieve this outcome, noting that many of the PSR's powers, especially those relating to enforcement, information and investigation, are similar to powers that the FCA already has. This means in some cases the government expects to enable the FCA to use its existing powers, with

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<sup>16</sup> According to section 71 of the Financial Services (Banking Reform) Act 2013, "compliance failure" means a failure by a participant in a regulated payment system to: (a) comply with a direction given under section 54; (b) comply with a requirement imposed under section 55 or 56; or (c) comply with rules made by the Regulator under paragraph 9A of Schedule 4: <https://www.legislation.gov.uk/ukpga/2013/33/contents>

the necessary modifications so they can be used in relation to regulated payment systems and the participants in those systems.

4.8 Where the FCA does not have comparable powers (such as a power to require the granting of access, a power to require the disposal of an interest or a power to require participants to vary certain agreements) the government will seek to ensure the FCA has recourse to powers that are equivalent in substance when acting in relation to payment systems.

4.9 One aspect the government is still considering is whether it would be preferable for the FCA to act in relation to payment systems on the basis of direction-making and requirement-making powers, similar to the PSR today; rulemaking and requirements-based powers, similar to how the FCA generally acts in other areas of financial services regulation; or both sets of powers.

4.10 An aim of integrating the PSR into the FCA is simplification of the regulatory framework to aid clarity and transparency. As such, in addition to integrating regulatory powers, the government is also considering making some targeted amendments to the toolkit of regulatory powers that would be available to the FCA.

4.11 One particular example is delivering a simpler framework for governing access to payment systems by ensuring there is a single access regime that applies in all relevant circumstances. This would be in contrast to today where the UK has two different and overlapping regimes:

- Part 5 of FSBRA 2013, where the PSR's ability to safeguard direct and indirect access to payment systems is provided for principally under sections 56 and 57. Since its creation, the PSR has set out the requirements expected from regulated payment systems in granting fair access via its powers of direction (through General Direction 2).
- Part 8 of the Payment Services Regulations 2017, which is assimilated EU law. This sets out requirements for direct and indirect access to payment systems under Regulations 103 and 104. For example, broadly, access must be given on a proportionate, objective and non-discriminatory basis.

4.12 These two regimes share similar objectives, but are different in design. As a result of the primacy of EU law for members of the EU, the UK disapplied the FSBRA 2013 regime (as provided in section 108 FSBRA 2013) where the Payment Services Regulations 2017 regime applied and where certain conditions were met. This means the PSR are unable to use their powers under sections 54 to 58 of FSBRA 2013 for the purposes of enabling or maintaining access or participation in a payment system, in circumstances where regulations 103 and 104 of the Payment Services Regulations 2017 apply in relation to access or participation in the payment system.

4.13 This structure can lead to perverse outcomes where similar market actors may be subject to different access provisions under

different regimes due to the way the legislation operates. The government considers a single regime, reflecting the provisions currently under FSBRA 2013, would be easier to enforce, navigate, reduce duplication and ambiguity, and deliver more consistent outcomes. The government's view is the regime under the Payment Services Regulations 2017 would benefit from removal and is considering the best legislative approach to remove these and deliver a single access regime.

**4.14** More broadly, the government is considering the PSR's powers alongside the FCA's powers and if there are further opportunities for making improvements in other areas of the PSR's current powers, such as the routes for appealing decisions and the enforcement powers for breaching notices requiring information or documents to be provided.

#### **Box 4.A Questions for respondents**

6. Do you agree the FCA should have powers when it acts in relation to payment systems that are equivalent in scope and substance to the PSR's powers in FSBRA as set out in the above? If not, please explain why.
7. Do you agree with the government's proposal to integrate these powers within the FCA's current legislative framework as set out in the above and to the extent practicable? If not, please explain why.
8. Do you agree with the government's proposal to move to a single framework for governing access to payment systems? If not, please explain why.



# Chapter 5

## Other features of the new framework

**5.1** This chapter sets out the government's proposed approach on other core aspects of the design of the new framework for payment systems regulation.

### Definitions of key terms

**5.2** In the current framework, Part 5 of FSBRA 2013 includes definitions of key terms for the purposes of the PSR's regulatory regime. These terms are "payment system", "digital settlement asset", "participants" in a payment system and "direct access" to a payment system.<sup>17</sup>

**5.3** FSBRA 2013 also gives HM Treasury a power by order to amend the definition of "digital settlement asset" and to add descriptions of systems or arrangements that are not to be regarded as payment systems, or vary or remove any such description.

**5.4** The government's view is that these definitions and the related power provided to HM Treasury remain broadly appropriate. Therefore, the government is proposing to retain the substance of these provisions in the new framework.

### Oversight and accountability

**5.5** In the current framework there are a range of provisions in Part 5 of FSBRA 2013 that provide oversight and accountability of the PSR's functions. These include, for example, a general duty to consult, requirements in relation to preparing and publishing policy statements, and powers for HM Treasury, including powers to issue recommendations to the PSR in connection with its general duties and to direct the PSR to carry out a review and provide a report.

**5.6** The government considers these provisions to remain broadly appropriate for the new framework. Therefore, it is proposing to apply oversight and accountability provisions to the FCA for when it acts in relation to payment systems that are broadly equivalent in scope and substance.

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<sup>17</sup> For further detail, see sections 41 and 42 of the Financial Services (Banking Reform) Act 2013: <https://www.legislation.gov.uk/ukpga/2013/33/contents>

**5.7** The government is proposing to do this by integrating the substance of these provisions within the FCA's current framework in FSMA 2000 to the extent this is practicable. Where it is not practicable, the government expects the relevant provisions would be set out in a new part of FSMA 2000. The government is considering the best approach to achieve this outcome, including if the provisions in the FCA's current framework in FSMA can be modified so they can be used in relation to payment systems or if new provisions may be needed. The government notes that FSMA 2000 already contains oversight and accountability mechanisms that are similar to those in FSBRA 2013 and apply to the FCA in relation to its existing functions as a regulator.

**5.8** Where the FSMA regime includes additional provisions, the government will consider the appropriateness of their application to payment systems. For example, the government expects that the ability for HM Treasury to direct the FCA not to take any action if it appears to be incompatible with the UK's international obligations, as set out in section 410 of FSMA 2000<sup>18</sup>, would be applied to the FCA's new functions in relation to payment systems with any necessary modifications.

#### **Box 5.A Questions for respondents**

9. Do you agree with the government's proposal to retain the existing definitions which are currently set out in Part 5 of FSBRA in the new framework as set out in the above? If not, please explain why.
10. Do you agree with the government's proposed approach to the oversight and accountability provisions that would apply to the FCA when it acts in relation to payments systems as set out in the above? If not, please explain why.

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<sup>18</sup> For further details see: <https://www.legislation.gov.uk/ukpga/2000/8/section/410>

# Chapter 6

## How to respond and next steps

### Responding to this consultation

6.1 This consultation will close on 20 October. The government is inviting stakeholders to provide responses to the questions set out above and to share any other views on the proposed approach to the new consolidated regulatory framework for payment systems. The government is interested in receiving representations from all interested parties and stakeholders.

#### How to submit responses

6.2 Please send responses to [streamlinedpaymentsconsultation@hmtreasury.gov.uk](mailto:streamlinedpaymentsconsultation@hmtreasury.gov.uk) or post to:

Payments and Fintech  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

### Processing of personal data

6.3 This section sets out how we will use your personal data and explains your relevant rights under the UK General Data Protection Regulation (UK GDPR).

#### Data subjects

6.4 The personal data we will collect relates to individuals responding to this consultation. These responses will come from a wide group of stakeholders with knowledge of a particular issue.

#### The personal data we collect

6.5 The personal data will be collected through email or written submissions and are likely to include respondents' names, email addresses, their job titles and employers as well as their opinions.

#### How we will use the personal data

6.6 This personal data will only be processed for the purpose of obtaining opinions about government policies, proposals or an issue of

public interest. Processing of this personal data is necessary to help us understand who has responded to the consultation and, in some cases, contact certain respondents to discuss their response. HM Treasury will not include any personal data when publishing its response to this consultation.

## Lawful basis for processing the personal data

6.7 The lawful basis we are relying on to process the personal data is Article 6(1)(e) of the UK GDPR; processing is necessary for the performance of a task we are carrying out in the public interest. This task is seeking evidence for the development of departmental policies or proposals and obtaining evidence to help us to develop effective policies.

## Who will have access to the personal data

6.8 The personal data will only be made available to those with a legitimate need to see it as part of the call for evidence process.

6.9 We sometimes issue consultations in partnership with other agencies and government departments and, when we do this, this will be apparent from the branding and wording of the consultation itself. For joint consultations, personal data received in responses will be shared with these partner organisations in order for them to also understand who responded to them.

6.10 As the personal data is stored on our IT infrastructure, it will be accessible to our IT service providers. They will only process this data for our purposes and in fulfilment with the contractual obligations they have with us.

## How long we hold the personal data

6.11 We will retain the personal data until work on the consultation is complete.

## Your data protection rights

6.12 You have the right to:

- request information about how we process your personal data and request a copy of it
- object to the processing of your personal data
- request that any inaccuracies in your personal data are rectified without delay
- request that your personal data are erased if there is no longer a justification for them to be processed
- complain to the Information Commissioner's Office if you are unhappy with the way in which we have processed your personal data

## How to submit a data subject access request

**6.13** To request access to your personal data that HM Treasury holds, please email [dsar@hmtreasury.gov.uk](mailto:dsar@hmtreasury.gov.uk) or contact:

The Information Rights Unit  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

## Complaints

**6.14** If you have concerns about Treasury's use of your personal data, please contact our Data Protection Officer (DPO) in the first instance at: [privacy@hmtreasury.gov.uk](mailto:privacy@hmtreasury.gov.uk).

**6.15** If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner at [casework@ico.org.uk](mailto:casework@ico.org.uk) or via this website: <https://ico.org.uk/make-a-complaint>.

## Next steps

**6.16** This consultation sets out details of the government's proposed policy approach for abolishing the PSR and integrating its functions within the FCA, and the broader design of the new regulatory framework.

**6.17** The government will carefully consider the responses it receives to this consultation and use them to inform a response and decisions on its final policy. The government will seek to bring forward legislation to implement its final policy when Parliamentary time allows.

### **HM Treasury contacts**

This document can be downloaded from [www.gov.uk](http://www.gov.uk)

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

Tel: 020 7270 5000

Email: [public.enquiries@hmtreasury.gov.uk](mailto:public.enquiries@hmtreasury.gov.uk)