Final report of the Independent Review of the Payment and Electronic Money Institution Insolvency Regulations 2021

Adam Plainer

December 2025

Final report of the Independent Review of the Payment and Electronic Money Institution Insolvency Regulations 2021

Adam Plainer

Presented to Parliament pursuant to section 236(6) of the Banking Act 2009.

December 2025

This publication is available at: www.gov.uk/official-documents.

Any enquiries regarding this publication should be sent to us at public.enquiries@hmtreasury.gov.uk.

ISBN: 978-1-918417-03-6 PU: 3601

Contents

0 Definitions and Interpretation

In this report the following words have the following meanings:

"**A2A**" means Account-to-Account Payments - a method of transferring funds directly between two bank accounts, bypassing intermediaries.

"**APIs**" means Authorised Payment Institutions.

"**Banking Act**" means The Banking Act 2009.

"**Bar Dates**" means the deadline to file a proof of claim against a debtor in special administration and includes "hard bar dates".

"**BNPL**" means Buy-Now-Pay-Later - a method of buying products that lets the consumer spread the price of items across a few weeks or months, usually taking the form of smaller regular payments.

"**BoE**" means the Bank of England.

"**BRRD**" means the Bank Recovery and Resolution Directive (2014/59/EU).

"**Consumers**" means users of the APIs and EMIs, including Customers and MSPs.

"**Costs Assessor**" means an independent professional appointed to inform approval decisions and help control costs.

"**Creditors' Committees**" means a committee consisting of no more than five and no less than three creditors who assist the administrator in the discharge of their functions.

"**Cryptoassets**" also known as "cryptocurrencies", means any cryptographically secured digital representation of value or contractual rights that (a) can be transferred, stored or traded electronically; and (b) that uses technology supporting their recording or storage.

"**Customer Funds**" means the safeguarded funds of Customers held on behalf of Customers by APIs and EMIs.

"**Customers**" means an everyday user of payment and e-money services (including Vulnerable Customers).

"**De Minimis**" means the concept that there are Customers who hold very minor balances and which questions the cost efficiency to Customers of the administrator spending time returning money to Customers.

"**DB**" means a Digital Bank that solely operates online and provides customers with services that could previously only be dealt with in a physical branch.

"**Digital Wallet**" means an electronic device that stores all personal payment details in one location.

"**EMIs**" means Electronic Money Institutions.

"**EMR 2011**" means The Electronic Money Regulations 2011.

"**FCA**" means the Financial Conduct Authority.

"**FDIC**" means the Federal Deposit Insurance Corporation of the United States.

"**FSCS**" means the Financial Services Compensation Scheme - the compensation scheme set up by the regulators for when certain authorised financial services fail.

"**FSCS-style**" means a suggestion (as set out in more detail of this report) to consider how the PESAR and Sector could introduce a protection like the FSCS to Customers within the Sector.

"**FSMA**" means The Financial Services and Markets Act 2000.

"**FX**" means Foreign Exchange/Transfer - for transactions which take place in multiple currencies.

"**HMT**" means His Majesty's Treasury.

"**IBSAR**" means the Investment Bank Special Administration Regulations 2011 - the special administration regime, a modified insolvency procedure, which sets objectives for investment banks.

"**InsO**" means The Insolvency Code under the laws of Germany.

"**Insolvency Service**" means an executive agency of the Department for Business and Trade that is responsible for supporting those involved in insolvency.

"**IP**" means insolvency practitioner.

"**KYC & AML**" means, know your customer and anti-money laundering.

"**MAS**" means the Monetary Authority of Singapore.

"**MSPs**" means Merchant Service Providers - a range of businesses that provide financial services and tools that often use APIs and/or EMIs to accept and process customer payments such as credit and debit card transactions.

"**NBPSP**" means non-bank payment service providers.

"**Objectives**" means the objectives specified in regulation 12 of the Payment and Electronic Money Institution Insolvency Regulations 2021.

"**Objective 1**" means the objective which sets out the requirement for the IP to ensure the return of Customer Funds as soon as reasonably practicable and to return post-administration receipts promptly.

"**Objective 2**" means the objective which sets out the requirement for the IP to ensure timely engagement with payment system operators, the Payment Systems Regulator and the Authorities.

"**Objective 3**" means the objective which sets out the requirement for the IP to (i) rescue the institution as a going concern or (ii) wind it up in the best interests of the creditors.

"**P2P**" means Peer-to-Peer Lending - an alternative investment where individuals lend directly to other people or businesses without using a bank.

"**Payment Systems Regulator**" means a regulator that oversees the payments system industry.

"**PBOC**" means the People's Bank of China.

"**PESAR**" means the Payment and Electronic Money Special Administration Regime - the special administration regime, a modified insolvency procedure, which contains objectives for payments and electronic money institutions.

"**PSA**" means The Payment Services Act 2019 under the laws of Singapore.

"**PSD2**" means the revised Payment Services Directive which governs payment systems in the European Union.

"**PSR 2017**" means The Payment Services Regulations 2017.

"**Resolution Packs**" means packs of documents which contain key information regarding winding down of a business which businesses must maintain.

"**RTGS**" means real-time gross settlement which is a system operated by the BoE to allow payments between payment systems to be processed and settled.

"**Safeguarded Funds**" means funds that must be safeguarded by payments and e-money businesses under Regulation 23 of the PSR 2017 and Regulation 20 of the EMR 2011 respectively.

"**SAR**" means Special Administration Regimes (including but not exclusively PESAR).

"**Scheme of Arrangement**" means a formal statutory procedure under Part 26 of the Companies Act 2006 under which a company may enter into a compromise or arrangement with its members or creditors (or any class of them).

"**SCV Files**" means the Single Customer View files which are provided by a deposit taker to the FSCS when paying compensation to customers.

"**Sector**" means the payments and e-money market which Consumers and firms operate in and which is described in more detail at Appendix 2.

"**Service Continuity**" means the continuation of the payments and e-money service in order to comply with the PESAR's objectives.

"**SIFI**" means a Systemically Important Financial Institution (primarily used as a reference point for the United States analysis).

"**Small Firms**" means a small payment institution or small electronic money institution as defined in the PSR 2017 and EMR 2011 (and described in The Payment and Electronic Money Institution Insolvency Regulations 2021).

"**Terms of Reference**" means the terms of reference to the independent review of the PESAR published on 12 December 2024.[1]

"**TUB**" means Testo Unico Bancario means the consolidated banking act under the laws of Italy.

"**TUF**" means Testo Unico della Finanza means the consolidated law on finance under the laws of Italy.

"**UNIDROIT**" means the International Institute for the Unification of Private Law.

"**Vulnerable Customers**" means Customers who have certain attributable characteristics which make them more susceptible to harm using financial services. The FCA lists the four relevant characteristics as: (i) those with lasting health conditions for a period of 12 months or more; (ii) negative life events experienced in the last 12 months; (iii) low financial resilience (measured by how able someone is to respond to increased financial pressure such as a mortgage or rent increase); and/or (iv) low capability where the user does not have confidence in their ability to deal with money or financial matters or may rarely use the internet for example.[2]

---

[1] Terms of Reference: Independent Review of the Payment and Electronic Money Institution Insolvency Regulations 2021 - GOV.UK

[2] Vulnerability review: Improving understanding of the outcomes for consumers in vulnerable circumstances when engaging with financial services firms

"**ZAG**" means The Payment Services Supervision Act (*Zahlungsdiensteaufsichtsgesetz*).

1 Introduction

1.1 HM Treasury (**HMT**) has requested an independent review into the efficacy of the Payment and Electronic Money Special Administration Regime (**PESAR**) as set out in the Terms of Reference, with particular focus on whether the PESAR achieves its core statutory objectives and if there are any recommendations that should be made to improve its efficacy. Assessments and recommendations of this review are provided throughout the report.

1.2 Overview and Background to the PESAR

(a) Before the global financial crisis of 2008, the core goals of administration in relation to financial institutions were to either rescue the company as a going concern or to maximise returns for creditors. However, the crisis highlighted significant limitations to this approach in safeguarding consumers: for example, in the failure of Northern Rock. Further, it was recognised in the administration of Lehman Brothers (*Re Lehman Brothers International (Europe) [2010] 1 BCLC 496*) that a Scheme of Arrangement pursuant to Part 26 of the Companies Act 2006 was not equipped to deal with the position of customers in a financial institution administration. In response, the Banking Act 2009 introduced a specialised insolvency regime for financial institutions, shifting the focus towards protecting Customer Funds held by these firms. IBSAR was enacted under powers conferred by the Banking Act 2009 to address the unique risks and resolution procedures necessary to deal with the failure of investment banks and similar entities, which differ from traditional retail banks.

(b) The rapid growth and sophistication of the Sector over the past decade has exposed the continued inefficiencies of insolvency legislation for certain financial institutions. The Sector is made up of a number of large firms that are global in nature with millions of Consumers and thousands of MSPs - most of these large firms have substantial international reach and sophisticated treasury operations. However, the Sector also includes small firms where the total value of Customer Funds may not justify the involvement of IPs. Even with situations involving larger firms, often there is a high volume of creditors, but they are Consumers with low credit balances, which makes it extremely challenging for IPs to wind down firms and return funds to Consumers and other creditors in a timely manner. As a result, administration proceedings for payments and e-money firms have the potential to take years to conclude - see Xpress Money Services Ltd (2022) at 3.4(a)(x) which took at least fifteen months to distribute funds to Customers.

(c) The UK payments market is projected to increase to 54.7 billion payments by 2034, largely driven by the payments and e-money industry.[3] Although cash will not disappear completely, it is likely that there will be an increase in the volume of those using remote banking and faster payments, of which APIs and EMIs make up a large proportion. 88% of UK consumers use at least one form of remote banking, and the forecasted volume of faster payments in the UK is predicted to rise to 7.1 billion by 2034, meaning the Sector is likely to continue to be a large contributor to this growth in payments.[4]

(d) Furthermore, it is likely that the Sector will see further innovation from existing players and new entrants to the market. This may result in further market volatility as new technologies replace the current forms of alternative payment methods that dominate the market, or new entrants themselves face financial difficulties in the payments industry. Although current payment methods such as BNPL and Digital Wallets are the dominant propositions in the Sector, the projected increase in A2A as well as the introduction of new technologies may influence the market over the coming years.

(e) To the extent that these alternative payment methods fall outside the FCA's regulatory perimeter then Customers who use these services may be exposed to greater risk. The PESAR may need to adapt to reflect future changes in the market, as without such changes, Customers may be left financially exposed.

(f) The PESAR was established in the United Kingdom through the Payment and Electronic Money Institution Insolvency Regulations 2021 to try to address inefficiencies in the insolvency legislation as it applied to the Sector. The PESAR was introduced against the backdrop of several insolvencies amongst EMIs and APIs, which exposed shortcomings in existing insolvency procedures such as particularly lengthy delays in returning Customer Funds.

(g) The PESAR was modelled in part on the IBSAR which was introduced as a special administration regime to handle the fallout of failures of large and complex investment firms such as investment banks after the global financial crisis.[5] Although similar to IBSAR, the PESAR was introduced with modifications designed to address the nuances of APIs and EMIs, whose operations, Customer bases, and risk profiles differ markedly from those of investment banks.

[3] Payment Markets Report Summary.pdf
[4] What's changed in the payments landscape? | Payment Systems Regulator
[5] Special Administration Regime

1.3 Purpose of the PESAR

(a) With 75% of all UK adults now using mobile banking and Customers increasingly embracing digital solutions,[6] more people are turning to APIs and EMIs to receive their salaries and carry out online payments which has led to the BoE providing access to its RTGS facilities for such providers.[7] Unlike traditional banks, APIs and EMIs do not accept deposits. However, they can process credit and debit transactions on (current) e-money or merchant accounts, facilitate FX transfers and, in the case of EMIs, issue electronic money (such as monies stored on a prepaid card).

(b) The PESAR was designed to provide a robust, swift, and customer-centric insolvency framework for EMIs and APIs. It aims to balance (i) the swift return of Customer Funds; and (ii) granting IPs the ability to continue to operate an institution through financial distress to ensure continuity of service for Customers. Objectives which the reviewer agrees are particularly important and are a key focus of this review.

(c) The introduction of the regime was a response to a succession of complex historical failures of payment firms, where alleged slow fund recovery was reported as causing Customer hardship and undermining trust in the Sector.[8] Amongst others, the FCA raised concerns that payment and e-money institutions showed the lowest liquidity levels in the financial sector, making them more susceptible to failure, particularly under pressures that were intensified by the COVID-19 pandemic.[9]

(d) The PESAR also aims (under the Objectives) to minimise market disruption, bolster confidence in the Sector, and address the unique characteristics of APIs and EMIs - which as noted differ from traditional investment banks in terms of customer base and services provided.

1.4 How the PESAR operates

(a) The PESAR is a special administration regime which is based on Schedule B1 of the Insolvency Act 1986 but with significant modifications. Special administration regimes typically prioritise the continuation of the supply of a service or good and/or require engagement with a particular regulator. Under PESAR, the

---

[6] Payment Markets Report Summary.pdf
[7] Access to UK payment systems for non-bank payment service providers | Bank of England
[8] Creditors of failed money transfer firm Viola seek Interpath's removal
[9] The coronavirus (Covid-19) financial resilience survey data | FCA

objectives set out below apply when APIs and EMIs enter special administration.

(b) Some of the core features of the PESAR include explicit objectives that the administrator must pursue during the insolvency proceeding. It also includes: (i) a mechanism to allow for Customers' funds to be transferred to a solvent institution; and (ii) to ensure continuity of service to the insolvent API and/or EMI required for the purposes of achieving the Objectives. The Objectives of the PESAR reflect the need to protect Customer Funds and to ensure engagement with the relevant regulators throughout the insolvency process.

1.5 Scope and Aims of the Report

(a) The purpose of this review is to help inform the Government about whether the current regime is working as intended and satisfies the Objectives under the PESAR, which requires that the following be considered:

(i) Objective 1 – the return of relevant funds as soon as reasonably practicable and to return post-administration receipts promptly;

(ii) Objective 2 – ensuring timely engagement with payment system operators, the Payment Systems Regulator and the Authorities; and

(iii) Objective 3 – to either rescue the institution as a going concern or wind it up in the best interests of the creditors.

(b) The review will assess:

(i) the extent to which the regime is meeting the Objectives and make a judgement on whether the regime should continue to have effect;

(ii) the impact that the PESAR has had on Customers, APIs and EMIs, IPs, and other stakeholders, in special administration cases where it has been used;

(iii) the extent to which the requirement under the PESAR for the administrator to prioritise the return of Customer Funds (Objective 1) over continuity of service is appropriate for larger payment firms. Consideration will also be given on whether prioritising return of funds over continuity of service is appropriate for Small Firms;

(iv) how effectively the PESAR could deliver continuity of service for a large payment firm. This includes considering how the firm's participation in a payment system may be impacted by entry into the PESAR;

(v) whether the co-operation between different government authorities, principally HMT, the BoE, the FCA, the Insolvency Service and the industry IPs, work effectively and if anything further, can be done to improve collaboration;

(vi) the effectiveness of the co-operation between UK authorities and authorities from other jurisdictions, where it is relevant to the use of the PESAR, and suggest any ways in which this could be improved; and

(vii) where appropriate and in so far as they are relevant to the PESAR, a high-level view on the FCA's changes to the safeguarding regime for payments and e-money firms which was published following HMT's Payment Services Regulations Review and Call for Evidence.[10] The FCA's changes to the safeguarding regime for payments and e-money firms aim to address weaknesses in current practices to reduce shortfalls in relevant funds and ensure these are returned to Customers as quickly as possible if a firm fails.

(c) In preparing this report and the recommendations herein, the reviewer has:

(i) engaged with stakeholders and considered their views. On the research conducted and, based on information provided by stakeholders as part of this report, there appears to be good co-operation in relation to the relationship between HMT, the BoE, the FCA and the Insolvency Service; and

(ii) had regard to wider developments in the Sector which may affect the operation of the PESAR, such as developments in the Cryptoassets and stablecoin sector. Based on the research conducted and on the input from stakeholders, although the PESAR currently only applies to APIs and EMIs, the regulatory architecture for Cryptoassets is evolving in a direction that mirrors the PESAR's core principles of (i) safeguarding; (ii) return of funds; and (iii) consumer protection. There is a clear opportunity for policy integration and, potentially, expansion by creating a parallel special administration regime tailored to the crypto sector. This has not been explored further in this report due to the need for a clear distinction between the PESAR review and financial services regulation of Cryptoassets.

[10] Payment Services Regulations Review and Call for Evidence - GOV.UK

2 Executive Summary of Analysis and Recommendations

2.1 The PESAR represents a significant step forward in addressing the unique challenges of insolvency in the Sector. However, stakeholder feedback from IPs, regulators, and industry bodies reveals that the PESAR is not yet delivering on one of its core objectives and what the reviewer believes should be its primary objective, Objective 3.

2.2 While the PESAR is preferable to relying solely on the Insolvency Act 1986 and the Insolvency (England and Wales) Rules 2016, its procedural complexity, high costs, and reliance on court processes have led to delays and diminished outcomes for Customers particularly those who are vulnerable or hold low-value accounts.

2.3 Five key areas have emerged as priorities for reform:

(a) Objective structure - the PESAR's three statutory objectives lack a clear hierarchy. This grants IPs some flexibility in determining their approach, but further encouragement and/or clarity may be needed to prioritise business rescue and customer transfers (Objective 3) where this would deliver the best outcomes for Customers. The reviewer understands that one challenge to this recommendation is that many payment services firms are brokers, and that FX brokers (and many other payment service firms) rely on having matched contracts with a banking counterparty to operate. Accordingly, it may not be possible to stop banks from terminating their contracts upon an administration of the payment services firm, making any sale/transfer of Customer contracts more difficult. Contracts are structured this way to reduce the chances of payments being challenged after administration. Further consultation and consideration would be needed to address the practicalities, but this would be consistent with - and help to achieve - the Objectives of the PESAR;

(b) Court and cost burden - the requirement for court entry and approval of distribution plans is often disproportionate. An out-of-court entry route which seeks to minimise the costs incurred but manages to provide some protection to IPs (perhaps through a further approval process which would need to be established) would reduce costs and accelerate the appointment process;

(c) Customer fund return - interim distributions are currently permitted but further guidance could be provided to give IPs comfort in how they are able to use this function. The reviewer notes that early access to post-administration receipts could be developed further and used more frequently to reduce delays. The absence of any FSCS protection is a gap that could be addressed as the industry matures to improve Consumer outcomes;

(d) Scalability and contingency planning - the PESAR has not yet been tested on large providers. Contingency planning is required to ensure the regime can manage the failure of a major provider - covering cross-border recognition and access to critical infrastructure. Further, in sectors such as those processing merchant payments, more focus may be needed to secure orderly transfers to a new provider or continuity arrangements so merchants can continue taking payments while a replacement is found; and

(e) Market and legal efficiency - targeted legislative refinements, clearer comfort mechanisms to IPs, and improved creditors' committee functionality are needed to reduce friction and encourage practitioner engagement.

2.4 As the payments landscape evolves, with increasing reliance on digital platforms and declining cash usage, the PESAR must adapt to remain fit for purpose. The regime's success will depend on its ability to balance speed, fairness, and operational practicality, while protecting Consumers and maintaining confidence in the UK's financial system. In addition to the PESAR itself, increased compliance with relevant regimes and record keeping – as referenced in the FCA's recent Policy Statement 25/12 – are essential.[11]

2.5 Following a comprehensive review of the PESAR and stakeholder feedback, a series of targeted recommendations are proposed to improve the regime's effectiveness, reduce costs, and enhance Consumer protection. These recommendations fall into five key categories which mirror the priorities for reform identified above:

(a) Hierarchy of Objectives

(i) Greater focus on the ability to prioritise the PESAR Objectives - enable greater flexibility to prioritise business rescue and Customer transfers (Objective 3) where this better protects Customer Funds. This can be achieved through IPs becoming more confident in pursuing the transfer of funds and service continuity and, where necessary, this should be underpinned by a general requirement to minimise disruption and harm to Customers.

(ii) Facilitate transfers - introduce clearer comfort mechanisms for IPs to support timely transfers of Customer accounts/payment services. These points are expanded later

[11] PS25/12: Changes to the safeguarding regime for payments and e-money firms

in the report, but the FCA may be able to grant comfort where a transfer is taking place from one regulated provider to another.

(iii) Incentivise market participation - encourage third-party providers to onboard Customers from failed institutions with their existing services/contract terms remaining in place, which should continue to maintain a focus on the provision of robust financial crime safeguards, as well as transitional support or indemnities. Finding a balance between incentivising market participation and ensuring regulatory requirements are complied with, is one area which the reviewer recommends is considered further.

(iv) Clarify and strengthen transfer provisions - strengthen the PESAR's framework for Customer book transfers, with greater awareness and understanding of the existing role for the FCA in approving and facilitating transfers through the appropriate regulatory permissions and assessment of the suitability of proposed transferees.

(b) Reducing Costs

(i) Out-of-Court Entry Route – providing firms and IPs with further options and the ability to enter the PESAR without in-court approval, thereby reducing costs and delays, particularly for smaller institutions.

(ii) Limit Court Involvement – by providing IPs with out-of-court routes, this would reserve court processes for the more complex and/or disputed cases.

(iii) Streamline Distribution Plans – the reviewer has considered the option of Creditors' Committees and a Cost Assessor, who are acting on behalf of the creditors, being empowered to approve distribution plans without court approval in less complex matters. The FCA could potentially assist in this process by reviewing the distribution plan and commenting whether it has any objections to a distribution plan being approved by the Creditors' Committee without court approval in those circumstances. Alternative suggestions could be (i) permitting FCA approval of distribution plans, although the reviewer notes that the FCA may not be suited for such a quasi-judicial role and may be unable to speed up the approval process were it to be given such a role; and (ii) IP led panels responsible for advising on distribution plans. These options could be developed further through consultation as required.

(iv) Enhance Creditors’ Committees - provide clearer guidance and discourage unnecessary legal spend to improve committee effectiveness. As noted above, where committees are enhanced / empowered, they would retain three safeguards (i) the ability to appoint a Costs Assessor with relevant expertise (for example from an experienced IP or legal professional); (ii) seek FCA assistance to indicate whether it objects to approval and/or considers court approval necessary, having regard to factors such as complexity, novelty and quantum; and (iii) the court route should always remain open to the creditors and/or Customers whether that is a request being made for approval of the distribution plan by the Creditors' Committee or by an individual creditor/Customer who feels unfairly treated. A further question for consultation is whether the appointment of a Costs Assessor should be mandatory in these cases or recommended by the FCA or Government.

(v) Improvements to the Preparation of Fee Estimates – IPs could (where possible) prepare fee estimates for anticipated work with restrictions (to be considered) on the drawing of fees and/or remuneration where such fees would be in excess of the fee estimate, unless adequately justified. A further review should assess whether alternative mechanisms would better implement this proposal, while ensuring any changes do not cause an unduly long standstill in the process.

(vi) Legislative Refinements - implement minor amendments to address operational inefficiencies, including cost recovery and reconciliation rules.

(c) Return of Customer Funds

(i) Accelerate the Return of Customer Funds - enable greater access to interim distributions and make early access to post-administration receipts easier, to reduce delays. One change which may assist in this objective would be to amend the current Bar Date process so that distribution plans are not required before it is possible to make any interim returns.

(ii) Support Vulnerable Customers – ensure that IPs continue to access and are comfortable accessing safeguarded funds during special administration to maintain essential services for Vulnerable Customers. Continued discussions with the FCA and Insolvency Service may be beneficial as there needs to be a balance between an IP preventing the depletion of funds and the needs of Vulnerable Customers.

(iii) Consider the Introduction of FSCS-Style protection (subject to Sector development) - mirror the FSCS model within the PESAR to enable rapid payouts and provide a robust safety net for Customers. The reviewer recognises that significant design and implementation issues would need to be addressed before such protection could be introduced, but this may become more feasible as the industry matures and is able to self-fund. An industry levy could be applied against companies once there has been sufficient growth and provided such a levy would not stifle competition. One stakeholder suggested the use of covered deposits being super-preferential (as is the approach in banking) may provide a useful starting point for future consideration. Although the reviewer has not been able to explore this point with stakeholders further at this stage, further analysis should be carried out on this suggestion which may result in further consultation.

(iv) Review of the introduction of De Minimis thresholds – the reviewer has taken time to consider the advantages and disadvantages of introducing de minimis thresholds for low-value customer accounts. The central difficulty when considering the De Minimis point is balancing cost efficiency with fairness, particularly for Customers in financial hardship. While some stakeholders favour a threshold, the reviewer cannot support this approach - chiefly because it is difficult to fix a defensible 'cut-off' point. Although one possible benchmark is the cost an IP would incur to contact the customer and verify details, the risk of unfairness - especially to Vulnerable Customers - remains significant. The reviewer therefore recommends against a De Minimis regime at this stage, while noting that further analysis may be warranted as the market develops.

(v) Scrutinise Costs - encourage interim distributions and consider independent cost assessors to ensure value for money.

(d) International Coordination

(i) Plan for Large-Scale Failures - develop contingency strategies for the insolvency of major providers, including cross-border recognition and infrastructure access. The reviewer considers that the FCA, the Insolvency Service, the BoE, HMT and a number of payment firms may all be helpful organisations to feed into any such contingency planning.

(ii) Improve Cross-Border Recognition - collaborate with other jurisdictions to ensure the PESAR appointments and orders are recognised and enforceable internationally. The reviewer understands that regulators already work across jurisdictions and that memorandums of understanding are in place with counterparts in certain jurisdictions. Therefore, it may be helpful for the Government to assess how best to deepen those relationships, identify priority jurisdictions and gaps, and focus efforts where enhanced cooperation is most needed.

(e) Miscellaneous

(i) Monitor Sector Evolution - continuously assess the PESAR's suitability in light of emerging technologies, digital payment trends, and international best practices. The reviewer notes it will be important to monitor how the market develops and assess how earlier points such as the introduction of FSCS-style protection may be considered further.

3 Summary of Research

3.1 Summary of the UK Regime – the PESAR

Scope and applicability

(a) The PESAR was established by the Payment and Electronic Money Institution Insolvency Regulations 2021 and applies to APIs and EMIs formed under the laws of England, Wales or Scotland. The PESAR was extended to Northern Ireland in 2024 under The Payment and Electronic Money Institution Insolvency (Amendment) Regulations 2023.

(b) Firms that do not handle Customer Funds (e.g., standalone account information service providers and payment initiation service providers) are not able to use the PESAR as an insolvency proceeding of choice. There is also limited application of the PESAR to certain Scottish entities (e.g., partnerships/LLPs, as currently framed).

Statutory Objectives and Prioritisation

(c) Regulation 12 sets three core objectives for the special administrator: (i) return relevant (safeguarded) Customer Funds as soon as reasonably practicable (which is also linked to the requirement to return post-administration receipts promptly in accordance with regulation 16); (ii) ensure timely engagement with payment system operators, the Payment Systems Regulator, the BoE, HMT and the FCA; and (iii) rescue the firm as a going concern, or wind it up in the interests of creditors.

(d) Objectives are non-hierarchical in law, but in practice Objective 1 is treated as paramount operationally.

Entry, oversight and the FCA's role

(e) Entry is by court order. The FCA, as one of the parties able to make an application, can apply for an order, is notified and consulted on key steps, and may issue directions in the public interest, including to mitigate market disruption and protect consumers.

(f) FCA participation is enabled through adaptations mirroring elements of IBSAR and FSMA Part 24.

Safeguarding and reconciliation

(g) Immediately on appointment, the administrator must carry out a reconciliation using the firm's records and methodology to identify the asset pool(s), any shortfall/excess, and beneficiaries, except a situation where the administrator cannot identify any occasion on which the institution carried out a reconciliation of that kind.

(h) Safeguarded funds are pooled and returned to eligible Customers; where there is a shortfall, the institution's own funds must be used to top up the safeguarded funds insofar as is possible, following which distributions are made pro-rata after permitted costs of distribution.

Distribution tools and bar dates

(i) The regime provides for:

   (i) setting bar dates and, where appropriate, hard bar dates to accelerate claim crystallisation;

   (ii) a court-approved distribution plan setting out methodology, costs and treatment of claims;

   (iii) prompt return of post-appointment receipts.

(j) Administrators may "deal with and return" relevant funds in the manner they consider best achieves Objective 1, subject to the rules and court oversight where required.

Continuity of operations and supply

(k) Administrators may continue to operate parts of the business where necessary to achieve the Objectives (e.g., to facilitate reconciliations, transfers, or controlled wind-down), subject to regulatory permissions remaining in place.

(l) Continuity of supply protections apply to critical suppliers within the UK jurisdiction (with limits for overseas providers). Payment system operators are excluded from the "supplier" definition, so continued access to schemes and RTGS depends on separate engagement and risk considerations. The reviewer notes that this exclusion can result in potential adverse outcomes, such as an inability to access payment infrastructure like RTGS.

Transfer options

(m) Partial property transfer arrangements and Customer book transfers are possible, but are constrained by scheme rules, KYC & AML requirements, data quality, comfort to IPs, and recognition issues.

Expenses, waterfalls and cost recovery

(n) Costs attributable to Objective 1 are payable from the client/relevant funds estate; costs for Objectives 2 and 3 fall to the general estate, with a "top-up" mechanism where appropriate.

(o) In practice, poor records, cross-border elements and legal complexity can make costs high relative to safeguarded balances, affecting consumer outcomes.

Exclusions and interaction with other regimes

(p) The PESAR co-exists with the PSR 2017 and the EMR 2011 safeguarding frameworks. It does not create FSCS cover as EMIs/APIs remain outside depositor protection.

(q) Firms that do not hold relevant funds would typically use general insolvency procedures unless a specific policy and/or legislative change extended particular tools to them. The reviewer notes that the absence of relevant funds is likely to be a factor which would feed into whether the PESAR is the appropriate insolvency proceeding or not.

Practical experience to date

(r) Compared with pre 2021 insolvencies, the PESAR provides clearer consumer focused tools such as reconciliation mandate, bar dates and structured distribution. However, cases have still experienced:

  (i) delays that are often at least 12 months to first distributions;

  (ii) high legal and administration costs borne by estates; and

  (iii) constraints on continuity of service pending reconciliation and court approvals.

(s) Stakeholders have proposed targeted reforms, including out of court entry, FCA-approved distribution plans in non-contentious cases rather than court-approved, early/interim distributions, clearer objective hierarchy to support transfers/continuity, improved data/safeguarding standards, and consideration of FSCS-style protections as the market matures.

3.2 Other Jurisdictions

While the PESAR regime in the UK sets a high bar for consumer protection and fund return in payment and e-money insolvencies, other major jurisdictions rely on general insolvency law and sector-specific safeguarding requirements. There is no comparable international standard: unlike banking - where UNIDROIT guidance exists - NBPSPs are expressly excluded from UNIDROIT materials on bank liquidations.[12] This comparative gap in the international community underscores both the strengths of the PESAR and the need for ongoing reform, particularly around cross-border recognition and harmonisation to ensure effective consumer protection in an increasingly global payments market. Analysis of the legislation in the United States, the EU, Germany, Italy, Singapore, and China is set out below.

(a) United States

(i) No equivalent of the PESAR - the U.S. lacks a dedicated insolvency regime for non-bank payment or EMIs. Most such firms are subject to the general U.S. Bankruptcy Code (Chapter 7 liquidation or Chapter 11 reorganisation).

(ii) Systemic institutions - only SIFIs may be resolved under the Dodd-Frank Act's Orderly Liquidation Authority, while banks are covered by the FDIC.

(iii) Customer protection - there is no statutory obligation for rapid return of Customer Funds (Objective 1) for non-bank payment firms. Customer interests are protected through general creditor priority rules, but without the explicit focus on speed or safeguarding found in the PESAR.

(iv) Practical impact - fund returns can be delayed, and consumer protection is less robust than under the UK's PESAR, especially in the absence of contractual segregation or trust arrangements.

(b) European Union

(i) No special administration regime - EU member states, including Germany and Italy, do not operate a PESAR-style special administration regime for payment or e-money institutions. Instead, they rely on general insolvency law, supplemented by sectoral safeguarding requirements under PSD2 and the E-Money Directive.

(c) Germany

(i) General law - the InsO applies to all companies, with additional sector-specific rules under the ZAG.

(ii) Safeguarding - recent amendments to ZAG, notably Section 17, clarify that segregated Customer Funds are excluded from

[12] Now available: Official English version of the UNIDROIT Legislative Guide on Bank Liquidation - UNIDROIT

the insolvent estate and not available to creditors, but there is no dedicated process for rapid fund return.

(iii) Practical application - insolvency administrators must segregate and protect Customer Funds, and customer claims over safeguarded funds generally rank ahead of unsecured creditors.

(d) Italy

(i) Banks and Financial Institutions - governed by the TUB and TUF, with extraordinary administration and compulsory administrative liquidation available for distressed entities.

(ii) Resolution tools - the BRRD is implemented for banks, focusing on continuity of essential services and orderly wind-downs, but not specifically tailored to payment/e-money institutions. The reviewer notes that a similar tool is also available in Germany.

(iii) Customer Protection - while safeguarding and segregation are required; there is no statutory regime equivalent to the PESAR's focus on the prompt return of Customer Funds (Objective 1).

(e) Singapore

(i) Framework – PSA regulates payment service provider, including e-money issuers and major payment institutions. Insolvencies proceed under general corporate insolvency law, with the supervisory powers of the MAS overlayed.

(ii) Customer Funds - PSA safeguarding requires customer monies to be held in trust/segregated accounts with qualifying institutions or secured via guarantees/insurance. Statute provides that safeguarded monies are protected from the firm's creditors on insolvency.

(iii) Supervisory powers - MAS can issue directions, vary/suspend/revoke licences, and require remedial actions. There is no dedicated special administration for APIs/EMIs, though MAS interventions, including facilitation of transfers or service wind-down, can mitigate disruption.

(iv) Comparison to the PESAR - Strong ex-ante safeguarding akin to the UK but no statutory objectives similar to the PESAR, bar date/distribution plan mechanisms, or formalised special administration focused on rapid fund return.

(f) China

(i) Framework - non-bank payment institutions are regulated by the PBOC. There is no special administration regime comparable to the PESAR; failures are addressed under general insolvency law with regulatory oversight. Centralised reserves materially reduce safeguarding risk and facilitate protection of users' funds, but there is no codified, court-supervised accelerated return process equivalent to the PESAR.

(g) Comparative Analysis

(i) Most jurisdictions rely on ex-ante safeguarding such as segregation, trusts, and guarantees, and general insolvency law rather than a bespoke, consumer-focused special administration.

(ii) The UK's PESAR regime is unique in providing a statutory, customer-focused insolvency process for payment and e-money institutions, with explicit objectives for the rapid return of Customer Funds (Objective 1) and enhanced regulatory oversight.

(iii) In the U.S. and EU, customer protection relies on general insolvency law and safeguarding rules, without a dedicated accelerated process or targeted administrator obligations as under the PESAR.

3.3 Reports of Key Stakeholders

For this review, feedback was requested from various stakeholders (including industry stakeholders and industry authorities). Their perspectives provide a view of the PESAR's strengths and persistent challenges. Appendix 1 sets out the stakeholder approach which has been followed when preparing this report.

(a) All of the stakeholders recognised that the PESAR is an improvement over the general insolvency framework, particularly through its focus on returning Customer Funds and the introduction of bar dates. However, one of the stakeholders highlighted that the PESAR has not consistently delivered timely or cost-effective outcomes. Key concerns include high legal and administrative costs, procedural delays, and insufficient flexibility, especially in supporting service continuity for Customers. One stakeholder recommends reforms such as enabling out-of-court entry, streamlining distribution processes, and introducing clearer statutory objectives to better protect Consumers, particularly the vulnerable.

(b) Another stakeholder noted that the PESAR has not achieved its intended goal of accelerating the return of Customer Funds (Objective 1). The regime's rigidity and reliance on court processes are seen as barriers to effective resolution, particularly for continuity of trading and Customer access. One stakeholder advocated for removing court approval requirements for distribution plans and bar dates, enabling interim distributions, and clarifying administrator remuneration. The same stakeholder also questioned PESAR's suitability for events of large or systemic failures, recommending a tailored resolution regime for such cases.

(c) One stakeholder echoed concerns about the PESAR's speed and cost. Legal and administrative expenses, poor account reconciliations, and the absence of FSCS-style protection were cited as major obstacles to efficient fund distribution. The stakeholder recommended eliminating court approval for certain actions (with a focus on out-of-court entry for low value and/or more straightforward matters), introducing De Minimis thresholds to reduce administrative burden, and consolidating estates to simplify the process.

(d) Consumer protection - all stakeholders agreed that the PESAR could offer better or more efficient support for Consumers, especially Vulnerable Customers, due to delays and lack of FSCS-style protection. Two of the stakeholders both stressed the need for early and partial access to funds during insolvency, improved safeguarding, and better data quality. A third highlighted that Customers ultimately bear the costs of administration and calls for clearer communication and a coverage scheme akin to the FSCS.

(e) Impact on the Sector - stakeholders are aligned in their view that the PESAR, while an improvement, needs to continue to adapt to ensure it remains fit for purpose. Two stakeholders each pointed to the need for enhanced cross-border cooperation and contingency planning for large-scale failures. A third emphasised that high failure rates and poor reconciliations threaten market stability, and that cross-border cases are particularly costly and complex. All three recommend reforms to improve market confidence, prudential oversight, and international recognition.

(f) In summary, the three stakeholders all recognise the PESAR's value but agree that significant reforms are needed to address cost, speed, Consumer protection, and scalability, especially as the Sector evolves and the risk of larger insolvencies increase.

(g) Additional stakeholders have provided comments on the content of this report and, although no written reports were received from these additional stakeholders, the reviewer has found their feedback helpful when considering key recommendations. One recommendation put forward by the additional stakeholders and which the reviewer suggests is considered in greater detail is to seek greater clarity on how the PESAR and The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 interact with one another and to resolve any barriers that this interaction may cause.

3.4 Recent Cases

(a) A review of recent special administration cases under the PESAR demonstrates how the regime is being applied in practice and highlights recurring legal and operational challenges. For completeness, the reviewer has provided a short summary of the recent cases below:

(i) **JNFX Ltd (November 2025)** – an entity which provides foreign exchange and payment services for corporate clients entered special administration after previously having agreed to a voluntary undertaking, which restricted the activities it can undertake. This case has occurred too recently for further details to be included in this report.

(ii) **Argentex LLP (July 2025)** – entered special administration due to a number of liquidity problems and resulting regulatory pressures. The reviewer understands that this special administration is and will continue to address:

(A) the prompt return of Customer Funds (Regulation 12);

(B) reconciliation and safeguarding of the asset pool (Regulations 13 to 15);

(C) customer claim priority (Regulation 18);

(D) the use of Bar Dates to expedite claims (Regulations 20 to 21);

(E) the extent to which special administrators may be found to have adopted contracts with the Customers of the firm;

(F) the ability of firms to sell or novate the customer book of trades; and

(G) the ability of special administrators to terminate Customer trades which can no longer be performed.

(iii) **Ziglu Limited (July 2025)** – entered special administration after the FCA took action to protect Customers which resulted in customers being able to withdraw funds from their accounts. Withdrawals by customers resulted in Ziglu then declaring insolvency. The reviewer understands that this special administration has and will continue to address:

(A) the court's oversight of the administrator's appointment (Regulation 7);

(B) the focus on returning both fiat and crypto funds (Regulation 12);

(C) asset pool management (Regulations 13 to 15); and

(D) transfer arrangements (Regulation 24).

(iv) **Blackthorn Finance Ltd (April 2025)** – originally entered voluntary liquidation, however, the firm did not have sufficient assets to meet all claims that were being made by creditors and the liquidators then sought an order to place Blackthorn Finance into special administration. The reviewer understands that this special administration is and will continue to address:

(A) the scope for EMIs entering into special administration (Regulation 4);

(B) fund return and creditor interests (Regulation 12); and

(C) safeguarding/reconciliation duties (Regulations 13 to 14).

(v) **Nvayo Limited (February 2025)** – Nvayo filed for special administration after the FCA placed restrictions on it carrying out e-money services without the FCA's consent (due to the FCA's concern for Customers) and following a failed appeal to the Upper Tribunal to remove the restrictions. The High Court mandated asset security and customer communication as part of the order. The reviewer understands that this special administration is and will continue to address:

(A) grounds for administration (Regulation 9);

(B) the focus on swift fund return (Regulation 12); and

(C) stakeholder engagement (Regulation 35).

(vi) **Contis Financial Services Ltd (January 2025)** – entered special administration amid disputes over safeguarded funds and risks of a wind-down to the business. The reviewer understands that this special administration is and will continue to address:

(A) prioritisation and distribution of Customer Funds (Regulation 12);

(B) complex reconciliation (Regulations 13 to 15); and

(C) the evaluation of transfer arrangements (Regulation 24).

(vii) **LCC Trans-sending Limited (June 2024)** – entered special administration after it had closed to new business and stopped accepting funds from Customers. The FCA had taken steps to protect Consumers due to risks partly associated with money laundering. The reviewer understands that this special administration is and will continue to address:

(A) customer claim priority (Regulation 18);

(B) the use of Bar Dates (Regulations 20 and 21); and

(C) ongoing regulatory liaison (Regulation 35).

(viii) **Silverbird Global Limited (March 2024)** – provided FX and payment services to corporate clients and acted as agent for The Currency Cloud Limited. The reviewer understands that this special administration is and will continue to address:

(A) swift return of funds (Regulation 12);

(B) reconciliation and transfer of funds (Regulations 13 to 15); and

(C) business transfer arrangements (Regulation 24).

(ix) **Rational Foreign Exchange Limited (November 2023)** – entered special administration after the directors of the company filed for insolvency. On the date of entry into special administration, the FCA imposed restrictions to safeguard Customers. The reviewer understands that this special administration is and will continue to address:

(A) swift return of funds (Regulation 12);

(B) safeguarding and reconciliation including a cross-border element (Regulations 13 to 15);

(C) Customer claim priority (Regulation 18);

(D) Bar Dates (Regulations 20–21); and

(E) ongoing FCA engagement (Regulation 35).

(x) **Monneo Ltd (May 2023)** – entered special administration following the directors of the company filing for insolvency. The FCA had imposed restrictions on Monneo which sought to protect Customers approximately a month before Monneo filed for insolvency. The firm was an API offering virtual IBANs before failing when it faced safeguarding breaches and serious regulatory compliance failures. FRP Advisory was appointed to secure assets, reconcile customer balances, and return safeguarded funds. The reviewer understands that this special administration addressed:

(A) return of funds and stakeholder engagement (Regulation 12);

(B) reconciliation and safeguarding of Customer assets (Regulations 13 to 15);

(C) priority of Customer claims over other creditors (Regulation 18); and

(D) ongoing communication with the FCA and stakeholders (Regulation 35).

(xi) **Xpress Money Services Ltd (February 2022)** – entered special administration after an application was made by the FCA following a winding-up petition (as well as other concerns) brought against Xpress Money Services Ltd. As a cross-border remittance provider, the firm struggled with unreturned Customer Funds and poor engagement. The High Court approved the first distribution plan under the PESAR in this case, marking a procedural milestone. The reviewer understands that this special administration addressed:

(A) the prioritisation of safeguarded fund return (Regulation 12);

(B) reconciliation and distribution of customer assets (Regulations 13 to 15);

(C) customer claims prioritised over other creditors (Regulation 18); and

(D) the use of Bar Dates to expedite claims processing (Regulations 20 and 21).

(xii) **Viola Money (Europe) Ltd (December 2021)** – was placed into special administration following an FCA application due to serious operational concerns which had resulted in the FCA restricting Viola Money from conducting regulated activity. As an authorised EMI, the firm was required to cease all regulated activities. Interpath was appointed to secure assets and facilitate fund return. The reviewer understands that this special administration is and will continue to address:

(A) the objective to return Customer Funds as soon as practicable (Regulation 12);

(B) reconciliation and safeguarding of customer assets (Regulations 13 to 15);

(C) prioritisation of customer claims (Regulation 18); and

(D) stakeholder engagement and reporting obligations (Regulation 35).

(b) **Common themes prevalent in the majority of PESAR cases:**

(i) **The prompt return of Customer Funds** – across all cases, the statutory objective of returning Customer Funds as soon as practicable, which the reviewer understands is treated as paramount operationally, was central. However, delays persisted due to reconciliation challenges (including poor record keeping by a number of the firms), regulatory requirements, and the need for court oversight.

(ii) **Bar Dates and claims processing** – the use of Bar Dates (Regulations 20 to 21) was a recurring tool to expedite claims, but in practice, the process often remained lengthy, especially where Customer data was incomplete or disputed.

(iii) **Reconciliation and safeguarding** – Regulations 13 to 15 were frequently tested, with poor record-keeping and complex asset pools complicating administrators' ability to identify and return funds efficiently.

(iv) **Transfer arrangements** – several cases (such as Argentex, Ziglu, Silverbird, Rational and Contis) explored the possibility of transferring Customer books or business units. However, practical and regulatory hurdles (such as KYC & AML, a lack of comfort being provided to IPs, or, in the case of brokers, losing the support of their counterparty banks) frequently rendered this impracticable. Implementing the recommendations in this report - particularly on offering comfort to IPs for related transfer mechanics - should help address these obstacles and make transfers a more viable option.

(v) **Regulatory engagement** – ongoing liaison with the FCA and, in some cases, HMRC proved critical, particularly in cases involving cross-border elements or complex business models.

(vi) **Consumer protection and FSCS** – none of the cases benefited from FSCS-style protection, leaving Customers exposed to losses and delays - a gap highlighted in stakeholder feedback.

(c) The recent case law regarding the PESAR demonstrates that, while the regime provides a structured framework for insolvency in the Sector, significant operational and legal challenges remain. Delays in fund return, high administrative costs, and the absence of FSCS-style coverage continue to undermine Consumer protection. The cases reinforce the need for targeted reforms, such as streamlined court processes, improved reconciliation standards, and enhanced transfer mechanisms, to ensure the PESAR delivers on its core Objectives.

4 Analysis

4.1 General Effectiveness of the PESAR

While the PESAR is broadly recognised as an improvement over relying solely on the Insolvency Act 1986 and the Insolvency (England and Wales) Rules 2016, stakeholders report that it is too slow and costly to achieve one of its core Objectives: "the prompt return of Customer Funds." The procedural complexity, particularly around court approvals and distribution planning, often results in delays that undermine consumer protection and confidence. The reviewer's analysis of the above has shown that there are five key areas to focus on when considering the PESAR and market perceptions of its effectiveness, being: (i) the existing Objectives under the PESAR; (ii) the cost and court process dictated by the PESAR; (iii) the importance of the return of Customer Funds (and how this is achieved); (iv) international alternatives and comparisons with how other jurisdictions deal with similar circumstances; and (v) miscellaneous points which are not covered by the others such as adjustments needed due to market trends.

4.2 The PESAR Objectives and Structural Challenges

(a) Legislative refinement - minor legislative amendments (particularly those informed by IPs and legal advisors), could significantly improve the PESAR's operational efficiency. These do not require wholesale reform but rather targeted adjustments to streamline processes and reduce unnecessary burdens.

(b) Objective hierarchy and continuity of service - the PESAR's Objectives are currently non-hierarchical. However, there are suggestions from stakeholders that Objective 3 (rescue or transfer of a business) should be prioritised in certain cases, especially where continuity of service could (i) protect Customer Funds more effectively than immediate distribution (where a turnaround of the business will protect funds) and/or (ii) reduce the risk of harm and disruption to Customers. The existing obstacles to Objective 3 are set out alongside the considerations at 4.2(b)(i) to 4.2(b)(iii) below. If Objective 3 is to be prioritised, then the following needs to be considered to further improve the ability which enables Objective 3 to become the priority:

(i) the lack of comfort available to IPs discourages transfers. The FCA may be able to grant the IP further comfort where the acquirer and the acquired is already regulated and governed by the FCA. A requirement for any form of comfort could be early engagement with the FCA, including the provision of a plan setting out what is intended in any special administration by the IP and the company as this is likely to assist in facilitating the special administration process. It is likely that IPs would want some form of comfort to be provided, but the practicalities of this should be discussed further with the FCA;

(ii) Vulnerable Customers are known to rely on EMIs and APIs as a financial lifeline as 30% of Vulnerable Customers using financial services make payments with deferred payment accounts - a figure which is 10% higher than the UK average.[13] Despite the reliance on these services by Vulnerable Customers, KYC & AML challenges make it difficult for new providers to complete onboarding of Customers at speed. Improvements to the speed at which Customers can be onboarded (while maintaining essential financial crime safeguards) would limit the disruption caused to Vulnerable Customers in the event of a special administration; and

(iii) a consideration of how the FCA could exercise its powers under regulation 38 of the PESAR, and analogous powers under IBSAR to reprioritise objectives to enable more flexible and pragmatic administration strategies. Further consideration of the sector and work is needed to determine when such powers should appropriately be used.

(c) Incentivising market participation - it is the understanding of the reviewer that complexity of the regime and associated costs may have historically discouraged some IPs from engaging early with the FCA and exploring transfer options available under the PESAR. Many Customers hold low-value accounts and may lack fixed addresses or awareness of claims processes, including Vulnerable Customers who regularly use deferred credit payment methods such as BNPL.[14] A more flexible approach to transfers and Customer engagement is needed to incentivise participation and reduce consumer harm.

(d) Strategic transfers and indemnities - for larger firms, the ability to transfer customer books quickly is essential. The PESAR should include clearer provisions around indemnification and transfer tools, potentially drawing on models from other SARs or the Banking Act 2009. Although indemnification may be difficult, the FCA may be able to provide indemnification where the acquirer and acquired are regulated entities (subject to any necessary legislative changes).

(e) Speed of return of funds - the need to return funds quickly is a recurring concern. Stakeholders advocate that although interim

[13] Financial Lives 2024 survey - Payments - Selected findings
[14] Financial Lives 2024 survey - Payments - Selected findings

distributions are capable of being performed, greater comfort in using mechanisms that allow interim distributions and early access to post-administration receipts should be developed, particularly where this would help to protect Vulnerable Customers. The reviewer notes that, although the FCA has addressed the use of interim distributions to address hardship,[15] some IPs may benefit from further industry discussion and guidance on when interim distributions may be used.

4.3 Stakeholder and Practitioner Insights: Operational Effectiveness of the PESAR

(a) Cost and delay in administration – the PESAR has introduced a more structured and consumer-focused approach to insolvency in the Sector. However, in practice, the process remains slow and expensive. The requirement for court approval of distribution plans and Bar Dates is a source of delay, with Customers often waiting up to a year or more for the return of funds.

(b) Quality of records and reconciliations - IPs consistently report that the quality of reconciliations and underlying records is often poor. This complicates the identification of customer entitlements and asset pools, prolongs the administration, delays the process of getting to a distribution plan and increases costs. Although safeguarding changes have been introduced alongside the FCA’s Policy Statement 25/12, which are likely to help address these issues in the future, however, a historic lack of reliable data will likely cause some obstacles to efficient fund distribution by the IP. The point that the PESAR would be more effective today if firms complied with their obligations and enforced monitoring was in place, has been identified by multiple stakeholders as a key consideration. To ensure the PESAR is more effective going forward, a dual approach is required: (i) the effectiveness of the safeguarding regime will need to be supported by ongoing supervisory engagement, which will help to ensure that the new requirements are embedded in firms' practices and deliver the intended outcomes for Customers; and (ii) reforms to the PESAR itself.

(c) Absence of FSCS protection - the lack of FSCS-style coverage for Customers is identified as a significant gap. Without FSCS-style protection, there is greater uncertainty for Customers and administrators in a special administration, and fewer opportunities to make interim payments or provide early access to funds. However, the reviewer notes that the cost of implementing FSCS-style protection would need to be provided by the Sector itself and the Sector is not yet sufficiently mature for a levy to be applied

[15] FG25/2: Guidance for insolvency practitioners on how to approach regulated firms | FCA

without it stifling competition. This is partly due to the associated costs which would be passed on to APIs and EMIs such as the costs of generating SCV Files to facilitate FSCS payouts. It is hoped that this will be a viable option in the future.

(d) Administrative burden of low-value and dormant accounts - the business models of many APIs and EMIs result in large volumes of low-value and dormant accounts. The administrative effort required to find, administer, and return funds to these account holders (given that, in special administration, the IP will likely be expected to undertake reasonable efforts to locate the Customer), is often disproportionate to the amounts involved, further increasing costs and delaying distributions. One possible solution suggested by a stakeholder is to provide details of (i) the total sum owed to low value account holders and (ii) a list of the low value account holders, to HMT or the FSCS, and then give the holders a prescribed amount of time to come forward and collect their assets. Any assets which are not claimed from the dormant accounts within a prescribed period could then revert to the FSCS or to the Crown. Any such solution would need to be considered in more detail before implementation.

(e) Need for De Minimis thresholds and straightforward process - stakeholders recommend the introduction of De Minimis thresholds to exclude very small claims from the distribution process, thereby reducing administrative costs and expediting the return of funds to the majority of Customers. There is also support for removing the requirement for court approval of distribution plans and Bar Dates in straightforward cases, and for allowing out-of-court entry into the regime.

(f) Uncertainty over cost recovery and waterfall priorities - IPs have expressed concern about the uncertainty and complexity of cost recovery under the PESAR, particularly regarding the ranking of expenses and the "top-up" obligation. This uncertainty can discourage IPs from accepting appointments and may result in suboptimal outcomes for Customers.

(g) Cross-border and recognition issues - cross-border insolvencies introduce additional complexity, cost, and delay, particularly where recognition of UK proceedings is required in other jurisdictions. Stakeholders recommend clearer guidance and contractual protections to address these challenges.

4.4 Cost and Court Process Reform

(a) Entry into the PESAR - the requirement for a court application to enter the PESAR is seen as disproportionate, especially for smaller firms. An out-of-court entry route, similar to standard administration, could reduce costs and improve speed, particularly where the FCA has no objection. Any out of court appointment would require prior FCA written consent, and it should be considered further whether a minimum prior notice to the FCA would need to be established.

(b) Distribution plans - court approval of distribution plans is often unnecessary and costly. IPs should be empowered to submit plans to a recognised body (such body to be determined) for approval, with court involvement reserved for disputed cases. This would reduce duplication and streamline administration.

(c) Creditors’ Committees - while Creditors' Committees are valuable, their members often lack the expertise to scrutinise complex insolvency costs. A more structured approach, such as appointing independent Cost Assessors, is likely to improve oversight, although, this may increase costs.

(d) Interim distributions - encouraging IPs to adopt an interim dividend mentality could improve outcomes.

(e) De Minimis claims - blanket De Minimis thresholds may exclude Customers in urgent need of funds. A more nuanced approach is needed to balance cost efficiency with fairness.

(f) Legal costs and panel firms - legal fees are a significant cost driver. Proposals to establish panels of law firms have met resistance, but further exploration of cost control mechanisms is warranted.

4.5 Return of Customer Funds and FSCS Coverage

(a) FSCS involvement - the absence of FSCS-style protection for Customers in the PESAR is a major gap. A claims-led approach, similar to FSCS payouts in banking failures, could significantly improve Customer outcomes and reduce delays once the market has matured.

(b) Interim distributions and safeguarding - IPs should be incentivised to make early distributions where possible. However, poor record-keeping and safeguarding failures often complicate reconciliation and delay fund returns.

(c) Sector evolution - as cash usage declines, digital payment platforms proliferate such as Cryptoassets and Digital Wallets, and the use of alternative methods of payments such as BNPL increases, the PESAR’s relevance and complexity will increase.

4.6 International Comparisons

Compared to other jurisdictions, the PESAR is relatively unique in its application to the payments and electronic money sector. A comparative analysis with jurisdictions like: (i) Singapore which has a similar regime to that in the UK; and (ii) China which has a very different regulatory regime, may therefore offer insights for future reform.

(a) Singapore does not operate an FSCS-style or equivalent statutory deposit guarantee scheme for customers of non-bank payment institutions or electronic money issuers in the event of insolvency.

(b) In Singapore, the PSA requires payment service providers and e-money issuers to safeguard customer monies by holding them in trust accounts with qualifying financial institutions or by securing them with guarantees or insurance (as is the case under the PSR 2017 and EMR 2011). Although segregation and/or insurance are already available to safeguard customer monies under the PSR 2017 and EMR 2011, the reviewer notes that it may be beneficial to introduce insurance as a requirement (legislative amendments may or may not be required to effect this as the recommendations do already exist under the PSR). These safeguarding measures are intended to protect customer funds from the provider's creditors in the event of insolvency. Similar to the UK regime, Singapore does not operate a statutory compensation scheme like the FSCS for APIs or EMIs. The return of customer funds relies on the effectiveness of the safeguarding arrangements and the insolvency process, rather than a government-backed or industry-funded compensation scheme. MAS has broad supervisory powers to intervene, but there is no automatic, rapid payout mechanism for customers comparable to the FSCS

(c) In China, customer protection is achieved primarily through the mandatory centralisation of customer reserve funds at the PBOC.[16] Since 2018/2019, all customer funds held by non-bank payment institutions must be deposited with the PBOC, segregated from the firm's own assets. This arrangement is designed to ensure that, in the event of a provider's insolvency, customer funds are insulated from the claims of other creditors and can be returned to users. A similar approach could be further developed in the UK through the safeguarding of NBPSP funds at the BoE or another bank. Similar to the PESAR, there is no statutory compensation scheme akin to the FSCS that guarantees or expedites the payout of customer funds. The return of funds depends on the effectiveness of the central reserve mechanism and the insolvency process, rather than a pre-funded compensation fund. The Chinese system is very different to

[16] PBOC reins in funds of payment platforms - Chinadaily.com.cn

the PESAR but provides a useful example of the different ways this problem is dealt with across the globe.

In summary, both China and Singapore rely on ex-ante safeguarding and regulatory oversight to protect customer funds, but neither jurisdiction provides an FSCS-style compensation scheme for Customers of failed payment or e-money institutions. Unlike the PESAR, other jurisdictions typically rely on general insolvency regimes or bank-specific insolvency processes. While the PESAR provides a tailored framework and is more advanced than most (if not all) jurisdictions listed, stakeholders recognise that the PESAR may struggle to manage the failure of the largest providers, given issues of scale, access to critical infrastructure and cross-border recognition.

4.7 Miscellaneous Considerations

The rise of group litigation and increased scrutiny of insolvency processes may impact the PESAR cases. Representation of Customer interests must balance the need for efficient resolution with fairness and transparency. The appropriateness of De Minimis thresholds and settlement strategies should be considered in this context.

5 Recommendations

5.1 After considering all of the above, the reviewer considers the recommendations fall into the following key categories: (i) making amendments to the Objectives to make it clear whether there should be a priority objective (and in what circumstances an objective should take priority over the others); (ii) introducing out of court options and reducing costs; (iii) return of Customer Funds and reconsideration of an FSCS-style scheme as the industry matures; (iv) greater international coordination; and (v) miscellaneous recommendations which do not fall into any of the above categories. The reviewer has listed the recommendations for HMT to consider under the sub-headings below.

5.2 **Hierarchy of Objectives**

(a) Reconsider whether there needs to be a hierarchy of Objectives under the PESAR by reviewing whether greater priority needs to be given to business rescue and transfer (Objective 3) where this would result in better protection of Customer Funds.

(b) Incentivise market participation and transfers by creating incentives for third-party providers to take on Customer accounts from failed institutions, particularly where Customers are unbanked or have low-value balances. The reviewer notes a Customer would need to be happy to contract with the acquirer of the business or contracts between firms and Customers would need to have a pre-agreed novation clause to enable the transfer of the business (and Customer contracts) to the acquirer in a timely fashion. Alternatively, the PESAR could replicate some of the powers granted under the Banking Act 2009 which allow transfers without the need for Customer consent. There should also be further consideration of the mechanisms for offering comfort to IPs, whether indemnification is able to be given by the FCA or in an alternative way.

(c) This may include regulatory guidance, immunities, indemnities, or transitional support. As noted above, it may be helpful to consider how the regulatory guidance and indemnities can be connected to the FCA, particularly where the acquired company and acquirer are likely both regulated by the FCA.

(d) One recommendation for review is how Customers are able to transfer their open positions (i.e. where payment services have combined with FX and the Customer has open positions / rates which have not yet reached maturity). Improving the options available when transferring Customer accounts, by considering and/or including any such open positions, are likely to help in facilitating the Objectives of the regime.

(e) Clarify and strengthen transfer provisions by ensuring the PESAR includes explicit provisions for the transfer of Customer books and accounts, with a role for the FCA in providing examples of best practice to help facilitate such transfers. The reviewer has assumed that Customers would want their accounts to be transferred if it ensured continued service, however, there is a possibility that some Customers may choose to refuse a transfer which would make the process more elongated. It may assist firms to include pre-agreed novation clauses to help facilitate the transfer of Customer books and accounts.

5.3 Reducing Costs

(a) Streamlining access to the PESAR by allowing APIs and EMIs to enter the regime via an out-of-court process, removing the default requirement for court approval. Providing further options to IPs (some of which are out-of-court routes) would provide benefit Consumers and the APIs and EMIs themselves. This would reduce costs and delays, particularly for smaller firms, while retaining court oversight for complex and/or disputed cases.

(b) Reduce unnecessary court involvement by confining applications to cases where they are strictly necessary - such as genuine disputes or complex issues - to minimise cost and administrative burden. For distribution plans, even if court approval is retained, consider dispensing with mandatory applications for approval of dates for distribution and for the administrators' discharge, thereby reducing costs and accelerating delivery against the regime's objectives.

(c) Streamline the distribution plan process to allow IPs to submit distribution plans to the Creditors' Committees and Costs Assessor for comment and/or approval. The FCA could then be asked for guidance on whether the distribution plan was capable of being issued without court approval. The updates would reserve court approval for contested cases or cases of a much higher value.

(d) Improve the effectiveness of Creditors' Committees by providing clearer guidance on their role and responsibilities, and by discouraging unnecessary legal costs. The establishment of a Creditors' Committee would of course be an option and up to the discretion of the creditors, but where appropriate in terms of size and complexity of the organisation, each Creditors' Committee should engage an independent person to act as a costs assessor to assist the Creditors' Committee, the costs of which should be borne by the estate.

(e) Any out of court appointment would require prior FCA written consent, and it should be considered further whether there is a minimum prior notice which would be required by the FCA.

(f) Make targeted legislative refinements to the PESAR by implementing minor amendments to address operational inefficiencies identified by IPs and legal advisors. These should focus on clarifying cost recovery, reconciliation requirements, and the treatment of top-up obligations, without introducing wholesale reform.

5.4 **Return of Customer Funds**

(a) Accelerate the return of Customer Funds by (i) introducing mechanisms to encourage the use of interim distributions, which are technically already permitted but have had very little use, and (ii) encourage early access to funds, to reduce the time Customers must wait to recover their money. As noted above, further guidance and market discussion on the use of interim distributions is likely to be needed to provide comfort to IPs in the use of this mechanism.

(b) Encourage (i) interim distributions, (ii) cost scrutiny, (iii) promote an interim dividend approach to help facilitate getting funds to Customers as quickly as possible and (iv) consider appointing independent cost assessors where appropriate to ensure value for money.

(c) Prioritise service continuity for Vulnerable Customers by assessing whether further amendments are needed to the PESAR which would encourage interim or partial access to safeguarded funds during administration, especially for Vulnerable Customers. The reviewer recommends a focus on alignment between Objective 3 and any such amendments with regards to providing interim access to safeguarded funds (where possible). Alternatively, all of the powers may already reside within the PESAR and all that is required is further market consultation and discussion to increase awareness around enabling interim payments or partial access to the safeguarded funds. This would reduce financial hardship and maintain access to essential payment services.

(d) Consider incorporating FSCS-style protection by leveraging the FSCS model, or introducing a similar mechanism within the PESAR, which ensures the rapid and reliable return of Customer Funds. Issues that should be considered in a further consultation or analysis as the market matures are (i) the FSCS's seven-day payout standard should be mirrored to enhance Consumer protection and confidence; and (ii) re-examining FSCS involvement and explore options for integrating FSCS coverage or a similar scheme into the PESAR to provide a more robust safety net for Customers.

(e) Review De Minimis thresholds and group litigation risks by carefully assessing the appropriateness of De Minimis thresholds for distributions, balancing cost efficiency with fairness, and monitor the impact of group litigation trends on the PESAR cases.

5.5 International Coordination

(a) Develop contingency plans for large-scale failures by undertaking scenario planning and regulatory stress-testing to ensure the PESAR can be effectively applied to the failure of large, complex institutions. This should include cross-border recognition and coordination with international insolvency regimes. The FCA has started work on this by setting an expectation in its "Approach Document" that all firms regulated by the PSR 2017 and EMR 2011 maintain wind-down plans and is also working to improve the maintenance of books, records and resolution packs through its introductions of new safeguarding requirements.[17] One recommendation is whether larger organisations should be obligated - instead of just expected - to create wind-down plans (to act as a living will) to assist in such an eventuality. Although the reviewer notes this would increase compliance costs of both the firm and the regulator, it would only be a requirement for the larger firms which are more likely to be able to comply with the requirements and it would benefit the regulator to ensure such plans are made. Such a change may need to be considered as part of any future changes to the PSR 2017 and EMR 2011.

(b) Enhance cross-border recognition by working with European and international partners to improve the likelihood of recognition of the PESAR proceedings where needed, ensuring effective resolution of cross-border payment and e-money institutions.

(c) Monitor sector evolution and international best practice. Continuously review the PESAR in light of developments in digital payments, Cryptoassets, and international insolvency practice, drawing practices from other jurisdictions as appropriate.

5.6 Miscellaneous

(a) The government should work with the BoE and any interested stakeholders to remove barriers which cause system operators to be excluded under the “supplier” definition in an effort to increase access to schemes and RTGS.

(b) Implement FCA safeguarding proposals and an effective monitoring regime of the proposals, noting that the FCA will be bringing new rules into effect in 2026 to assist on this point. As noted above, monitoring is required to ensure that compliance with record-keeping and the production of Resolution Packs is

[17] PS25/12: Changes to the safeguarding regime for payments and e-money firms

maintained as this will save significant IP costs and time. The reviewer notes that improvements brought about by the new safeguarding proposals are likely to assist potential acquirers when considering a new acquisition.

6 Appendix 1: Research

6.1 In the course of producing this report, the reviewer reached out to stakeholders some of whom represent substantial numbers of parties (including advisors) and received very helpful feedback, including written reports from three of those stakeholders which are summarised below, and comments/suggestions from several stakeholders in the writing phase of this report.

6.2 Alongside reviewing reports and feedback from stakeholders, the reviewer has conducted research into how electronic money and payment service providers are legislated, particularly in an insolvency event, in the following jurisdictions: (i) the United States of America; (ii) the EU regime, in particular that of Germany and Italy; (iii) Singapore; and (iv) China.

6.3 The reviewer has set out a summary of this research at 3 above, but please see more detailed note of the research findings below.

6.4 **Stakeholder Comments**

(a) Please see a summary below of the written report from three of the Stakeholders. The Stakeholders are numbered as Stakeholder 1, Stakeholder 2 and Stakeholder 3 for reference.

(i) **Stakeholder 1 initial comments**

Stakeholder 1 has acknowledged that the PESAR represents an improvement over use of general insolvency frameworks in the administration of payment services and electronic money firms, by prioritising the return of relevant funds to Customers and introducing mechanisms such as bar dates. Despite these enhancements, Stakeholder 1 has observed that outcomes under the PESAR have been less than optimal, attributing this to high legal and administrative costs, prolonged delays in fund distribution, and a lack of flexibility in some aspects of the PESAR. However, Stakeholder 1 also noted that there are some parts of the PESAR where flexibility already exists but IPs are not using all the powers available to them. As a result, Stakeholder 1 has proposed several reforms to address these shortcomings, including allowing out-of-court entry to the regime, streamlining distribution procedures, and setting clearer objectives that would facilitate continuity of services for affected Customers.

(ii) **Stakeholder 2 initial comments**

Stakeholder 2 has also provided its perspective, stating that the PESAR has not delivered noticeably faster returns of funds to Customers. According to Stakeholder 2, the regime is hampered by its rigidity and does not adequately support the continuity of trading for insolvent firms. Stakeholder 2's recommendations for improvement include doing away with the requirement for court approval for distribution plans and hard bar dates, enabling interim distributions of funds, and providing greater clarity around how administrators are remunerated. Stakeholder 2 further suggested that, without major reform, the PESAR is not well suited to managing the insolvency of payment and electronic money firms.

(iii) **Stakeholder 3 initial comments**

Stakeholder 3 has commented that the PESAR tends to be both slow and costly. Stakeholder 3 cited legal and administrative expenses as significant factors contributing to delays in distributing funds to Customers. Failure to reconcile accounts and the absence of FSCS coverage were noted as additional issues that compound the inefficiencies within the current regime. To improve the PESAR's effectiveness, Stakeholder 3 recommended eliminating the need for court approval for certain actions, introducing de minimis thresholds for administrative procedures, and consolidating estates to help simplify and expedite the process.

(b) Consumer Protection - key considerations in relation to Consumer Protection under the PESAR are: (i) the effects on safeguarding client funds (including shortfalls given there is no FSCS cover); (ii) real-world case analysis post-2021; and (iii) handling of claims and distributions. Comments on consumer protection in each of the stakeholder reports are as follows:

(i) Stakeholder 1 has observed that the PESAR has not succeeded in ensuring the timely return of funds to consumers, with Vulnerable Customers being particularly affected by these delays. Stakeholder 1 has stressed the importance of enabling early access to Customer Funds and maintaining the continued use of payment instruments during insolvency proceedings. Additionally, Stakeholder 1 advocates for the introduction of a new statutory objective within the PESAR that is focused on preserving service continuity for consumers. It also highlights the absence of FSCS protection as a significant gap in the current regime, leaving many consumers exposed if a payment institution or EMI fails.

(ii) According to Stakeholder 2, the PESAR has failed to achieve the rapid fund payouts that exist under FSCS, such as the benchmark 7-day timeframe. Stakeholder 2 underscores the importance of service continuity, especially for vulnerable and unbanked consumers who rely heavily on payment institutions for access to their money. The organisation suggests that partial access to funds should be permitted during insolvency and calls for improvements in reconciliation processes to speed up distributions to affected Customers. Stakeholder 2 supports the FCA's proposed enhancements to safeguarding rules, including reforms designed to improve the quality and accuracy of data held by administrators.

(iii) Stakeholder 3's comments indicate that consumers ultimately shoulder the costs of administration, as most payment institutions and EMIs operate with limited capital reserves. The lack of FSCS protection was again identified as a factor that exacerbates harm to affected Customers. Stakeholder 3 recommends introducing a coverage scheme similar to FSCS, removing low-value claims from the distribution process, and enhancing the quality and clarity of communications to consumers throughout insolvency proceedings.

(c) Market and Prudential Impact - under the PESAR, considerations under "market and prudential impact" are: (i) the effect on competition in payments/e-money sectors; (ii) market stability and confidence; and (iii) cross-border insolvencies and interaction with EU/overseas frameworks. The reviewer has included the key comments from stakeholders on these points below:

(i) Stakeholder 1 has acknowledged that while the PESAR provides tools to manage the failure of payment institutions and electronic money institutions, further reform is necessary to enhance market confidence. Stakeholder 1 has noted a particularly high risk of failure among firms with low financial resilience and advocates for improving their access to critical payment infrastructure. Stakeholder 1 also emphasises the need for greater cross-border cooperation when handling insolvencies, suggesting that the PESAR could potentially be adapted to address the risks posed by stablecoins and similar digital payment instruments in the future.

(ii) Stakeholder 2 has commented that the PESAR, in its current form, is not well-suited to managing the insolvency of large or systemic firms. The absence of robust continuity tools within the regime raises the risk of significant market disruption during a failure. Stakeholder 2 recommends the introduction of a special resolution regime tailored to systemic non-bank financial institutions, alongside enhanced mechanisms for cross-border recognition of insolvency outcomes. The organisation also endorses the Stakeholder 2's proposals to strengthen safeguarding requirements, believing these would improve overall prudential oversight for payment and electronic money institutions.

(iii) Stakeholder 3 has highlighted that high failure rates and poor account reconciliations pose considerable threats to market stability. The firm remarks that cross-border insolvencies often become expensive and drawn out, placing additional strain on both consumers and the wider financial system. To address these challenges, Stakeholder 3 recommends the establishment of contractual protection mechanisms and calls for clearer, more consistent guidance regarding international recognition and cooperation in insolvency proceedings.

6.5 Regulatory framework in alternative jurisdictions

(a) United States - Insolvency and Resolution Regimes

Key Features - no single, dedicated regime for payment or e-money institutions that are not banks. Most non-bank payment firms, for example FinTechs and e-money providers, fall under the U.S. Bankruptcy Code.

(i) U.S. Bankruptcy Code: Chapter 7- liquidation by an appointed trustee; and Chapter 11: Reorganization, often with existing management in control (debtor in possession).

(ii) For SIFIs, the Dodd-Frank Act Title II provides an Orderly Liquidation Authority, potentially overriding bankruptcy.

(iii) Banks and insured depositories are covered by the FDIC under the Federal Deposit Insurance Act. There is no special regime ensuring rapid return of Customer Funds for payment/e-money firms outside banking. Customer interests are protected via general creditor priority rules; however, there is no explicit statutory obligation to prioritise speed or customer fund return unless contractually specified.

(iv) Practical Impact:

(A) The return of funds to users can be delayed, especially in the absence of any contractual trust or segregation arrangements; and

(B) Consumer protection in non-bank payment insolvencies is less robust than in the UK PESAR regime.

(v) Key Similarities

(A) Both countries aim to protect consumers and creditors and uphold sector stability during insolvency; and

(B) Both have strong regulatory oversight of payment and e-money institutions in normal circumstances.

(b) EU - Germany, Italy and other EU Regimes

EU countries do not have an insolvency regime for payment institutions and e-money institutions that is directly equivalent to the UK's PESAR. The PESAR is notable for creating a special, customer-focused insolvency procedure with statutory prioritisation for the prompt return of Customer Funds. In contrast, Germany and most EU member states rely on a combination of general insolvency law and sectoral safeguarding requirements.

(c) German Regulatory Framework:

(i) General Insolvency Law:

(A) Germany's Insolvency Code (*Insolvenzordnung, InsO*) is the primary legislation for insolvency proceedings. It applies to both individuals and companies, with the main goal of collective satisfaction of creditors, usually via liquidation or reorganisation;

(B) The law is generally uniform for all company types, but there are special rules for regulated financial sector entities, including payment institutions and e-money institutions.

(ii) Sector-Specific Provisions:

(A) For payment institutions and e-money institutions, additional governance comes from the Payment Services Supervision Act (*Zahlungsdiensteaufsichtsgesetz*) (**ZAG**);

(B) Section 16 (and importantly, Section 17 as amended in 2025) of the ZAG sets requirements for how client funds must be safeguarded. Firms must hold customer monies in separate (not trust) accounts with credit institutions or, as of 2025, with central banks-but only where this is technically possible; and

(C) The new wording in Section 17 of ZAG specifies that funds in these separate accounts "*are not available to creditors*" in the event of insolvency, clarifying that

Customers have a statutory right to have their segregated monies excluded from the insolvent estate.

(iii) Practical Application:

(A) In a German payment/e-money institution insolvency, the appointed insolvency administrator (*Insolvenzverwalter*) must segregate and protect Customer Funds held in separate accounts;

(B) Customer claims over safeguarded funds generally rank ahead of other unsecured creditors, reflecting priorities set out in EU and German law deriving from the Payment Services Directive 2 (**PSD2**) and the Electronic Money Directive; and

(C) There is, however, no dedicated special administration regime for payment or e-money firms with objectives and processes equivalent to the UK's PESAR.

(d) EU-Wide Approach:

(i) The EU approach is based on regulatory requirements for safeguarding Customer Funds - found in the PSD2 and E-Money Directives, as implemented in the national law;

(ii) No EU country currently operates a special insolvency regime for these institutions directly comparable to the PESAR; and

(iii) Instead, customer protection relies on segregation of funds and safeguarding rules plus the general insolvency code, rather than a dedicated accelerated process or administrator obligations in the same way the PESAR does.

(e) Italian law for banks and financial institutions:

(i) The reviewer notes that the applicable legal framework differs between Banks and Financial Institutions:

(A) Banks are primarily governed by Legislative Decree No. 385/1993 (commonly referred to as the Testo Unico Bancario or TUB); and

(B) Financial intermediaries, including certain crypto-related businesses, are regulated under Legislative Decree No. 58/1998 (known as the Testo Unico della Finanza or TUF).

(ii) That said, both banks and financial institutions may be subject to similar types of proceedings, although the procedural rules may be tailored to their specific nature. The main options include:

(iii) Extraordinary Administration (*Amministrazione Straordinaria*) - this is a temporary measure triggered in cases of serious governance failures, major breaches of laws or by-laws, or major capital losses. It's not punitive in nature, but rather a form of prudential supervision aimed at safeguarding the entity and avoiding a full-blown crisis. The Bank of Italy appoints special administrators who take over from the existing management. The procedure may end in different ways depending on whether the institution can be rescued. If recovery proves impossible, it may lead to Compulsory Administrative Liquidation.

(iv) Compulsory Administrative Liquidation (*Liquidazione Coatta Amministrativa or LCA*) - this procedure is governed by Article 293 et seq. of the Italian Insolvency Code. It is typically applied in cases of exceptionally serious loss. It is similar to ordinary bankruptcy but tailored for entities that operate in sectors of public interest such as banks, insurance companies, or regulated financial intermediaries.

(v) A government body appoints a Liquidator Commissioner who is responsible, inter alia, for collecting resources with the purpose of distributing them to creditors. This is achievable inter alia by:

(A) selling the debtor's assets;

(B) initiating liability actions; and

(C) filing claw-back actions.

The process begins with:

(1) a declaration of insolvency issued by a court (for example, in the case of a SICAF), and

(2) an official decision by the competent authority, the Ministry of Economy, which opens the liquidation and appoints the liquidator.

(vi) Bank Resolution (Risoluzione Bancaria) - this tool was introduced in Italy through Legislative Decrees No. 180 and 181 of 2015, which implemented the EU Bank Recovery and Resolution Directive (BRRD - Directive 2014/59/EU). It applies to banks and certain other financial institutions and is managed by independent resolution authorities, such as the Bank of Italy and the Single Resolution Board at European level. These authorities are vested with powers and tools. It applies to banks and some other financial institutions and is managed by independent resolution authorities. Unlike LCA, resolution focuses on stabilisation and recovery using a wide range of tools now available under the BRRD.

The aim is to:

(A) ensure continuity of essential services, such as deposit-taking and payments;

(B) preserve the viable parts of the business; and

(C) wind down the remaining parts in an orderly fashion.

7 Appendix 2: Overview of the Sector

Summary of the Sector

The Sector is a highly dynamic and rapidly changing market which relies on technological developments that respond to shifts in user behaviour. As the market is generally consumer-centric and technologically innovative, there is an element of volatility for those institutions providing services within the market. It includes a broad range of alternative financial services institutions that are not necessarily competing against all other players in the market.[18] This ranges from A2A payments to BNPL service providers all with varying sizes and business structures.

The UK is considered a medium-cash use market alongside other key markets such as Singapore, Australia, the US and Canada. Although there has been a steep decline in the amount of transactions that involve cash, it appears that this has begun to plateau with cash payments only forecasted to decrease by 2% by 2030. However, 88% of the UK adult population used at least one form of remote banking, with 75% accounting for mobile banking. The huge surge in mobile contactless payments should also be recognised totalling 18.9 billion payments in 2024. The PESAR is operating within this industry and should therefore be considered in accordance with this.

Key institutions driving the market

The e-commerce market continues to grow, with the share of global e-commerce conducted via mobile device reaching 57% in 2024, compared to 19% in 2014.[19] Digital Wallets and BNPL appear to be the key drivers of growth within the payments and e-money sector as their payment volumes continue to increase. The nature of the payments and electronic money services industry has resulted in it being a market which has a lot of start-ups which is likely to result in some players entering insolvency processes at some point in the future.

1) Digital Wallets

Digital Wallets, through technology such as Apple Pay and Google Pay are the fastest growing payment method amongst UK consumers and currently accounts for 40% of payments, making it the largest payment method used by UK consumers.[20] By 2030, Digital Wallets are forecasted to account for 58% of payments. Depending on the services offered by the wallet provider, this

---

[18] Global Payments Report | Payment Insights | Worldpay
[19] Payment Markets Report Summary.pdf
[20] Over half of UK adults now use mobile wallets | Insights | UK Finance

method could fall under the jurisdiction of the PESAR and could be a growing concern should any of these providers of Digital Wallets become insolvent.

2) BNPL

Furthermore, there is an increase in those using BNPL with 1 in 4 people using these services at least once in the last year compared to 14% in the previous year. The largest proportion of BNPL users were aged 25–34, making up 36% of users. Although BNPL was initially provided by retailers and card issuers, there are new entrants now entering the market. Due to BNPL essentially being a credit product, Vulnerable Customers who rely on credit products may be particularly affected by the PESAR should these new BNPL institutions become insolvent.[21]

3) A2A

There has also been a shift towards A2A transactions from peer-to-peer and business-to-consumer. This is generally a less well established than other alternative payment methods and may see an increase in use in the future due to the reduction in fees associated with making transactions. Businesses may also use A2A to avoid costs of the alternative payment service providers.

Future trends

Regarding the Sector, it is evident that it is a dynamic market with technological innovation resulting in fast growth and development.[22] Although card payments and cash are unlikely to disappear, with card payments likely to remain a mainstream form of payment, it is likely that the market will see the following trends:

1. There will be a rise in digital payments.
2. Digital Wallet use is expected to grow with more people likely to register and use services such as Apple Pay and Google Pay.
3. New services such as pay by bank, essentially a form of A2A may become more common.
4. There will be further innovation in credit products.
5. Digital currencies or Cryptocurrencies are likely to be more common in future.[23]

These trends highlight that a well-functioning PESAR will become even more important in the coming years.

---

[21] Guidance for firms on the fair treatment of vulnerable customers | FCA
[22] What's changed in the payments landscape? | Payment Systems Regulator
[23] Key trends: The future of retailer payments - PwC UK

HM Treasury contacts

This document can be downloaded from 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

E-mail: public.enquiries@hmtreasury.gov.uk