

## Payments aspects of UK Mansion House reforms

In his Mansion House speech on 10 July 2023, the Chancellor of the Exchequer Jeremy Hunt referred to further planned reforms - the 'Mansion House reforms' - that build on December 2022's Edinburgh Reforms. This is all part of the post-Brexit work to deliver a Smarter Financial Services Regulatory Framework tailored to the UK. Among other things, the Chancellor announced an independent review into the future of payments to ensure the UK remains at the forefront of payments technology. The government has also laid new legislation to give regulators the powers they need to reform rules on innovative payments and fintech services, and is continuing to explore potential designs for the digital pound with the Bank of England. In addition, the government's response to the December 2022 consultation on the customer information requirements in the Payment Accounts Regulations 2015 has been published.

### Future of Payments Review 2023

The aim of the [Future of Payments Review 2023](#), announced by the Chancellor during his [Mansion House speech](#), is to consider how payments are likely to be made in the future and make recommendations for government, financial services regulators and industry on the steps needed to successfully deliver world leading retail payments, in a further boost to UK fintech competitiveness.

### Call for Input

A [Call for Input](#) has been published to inform the Review, which will be chaired by Joe Garner.

'Consumer needs' will be the primary focus of the Review. For these purposes, 'consumers' encompasses both individuals and businesses making and receiving retail payments. In making the recommendations, the Review will look to answer three specific questions.

1. What are the most important consumer retail payment journeys both today and in the next 5 years? For example, paying a friend, paying a bill, paying businesses for goods and services, in the UK or internationally etc.
2. For these journeys today, how does the UK consumer experience for individuals and businesses compare versus other leading countries? For example, the quality of experience, security or cost.
3. Looking at the in-flight plans and initiatives across the payments landscape, how likely are they to deliver world leading payment journeys for UK consumers? For example, we welcome suggestions that you feel would support, or are essential to delivering, world leading payments for UK consumers.

### Scope of the Review

The scope of the Review is set out in more detail in its [Terms of Reference](#). In relation to the above questions, the Review is asked to consider how the UK's retail payment systems and networks need to evolve to, among other things, catalyse innovation in payment services, support interoperability with new forms of digital money, including insofar as the role of banks is concerned (but stablecoins and central bank digital currency policy are out of scope), and ensure accessible and inclusive digital payments.

The Review may also consider the steps needed to build on the Joint Regulatory Oversight Committee's (JROC) report on the future of Open Banking to drive uptake in retail account-to-account payments. See our Engage article ['Open Banking: JROC recommendations on next phase aim to keep UK ahead of the pack'](#) for more on the JROC's report.

The New Payments Architecture (NPA) will also be relevant to the Review, which may make recommendations building on (rather than replacing) NPA plans.

### What's next?

The Call for Input closes on 1 September 2023. The Chair will provide a report and recommendations to the government in Autumn 2023.

### **Ensuring FCA rulemaking powers and PSR powers of direction are fit for work to replace retained EU payments law**

The [Financial Services and Markets Act 2023](#) (FSMA 2023) repeals retained EU law (REUL) relating to financial services in order to deliver a Smarter Regulatory Framework (SRF) tailored to the UK. REUL will be replaced with rules set by the regulators, operating within a framework established by government and Parliament (ie a comprehensive FSMA model). As part of the Edinburgh Reforms announced in December 2022, HM Treasury (HMT) published the policy statement ['Building a Smarter Financial Services Framework for the UK'](#) which set out the government's policy approach to the SRF programme of repeal and replacement. HMT has now published a follow-up policy paper ['Building a Smarter Financial Services Regulatory Framework for the UK: HM Treasury's Plan for Delivery'](#), which describes how the government will deliver this approach in practice.

The government's work to repeal retained EU payments law – in particular the Payment Services Regulations 2017 (PSRs 2017) and the Electronic Money Regulations 2011 (EMRs 2011) - is on the list of financial services items in Tranche 2 of its SRF programme, as set out in the December 2022 HMT policy statement. The latest HMT policy paper includes a table showing the government's progress on the programme so far, including that announced by the Chancellor in his 2023 Mansion House speech, as well as next steps for the legislative files in Tranches 1 and 2 of the programme.

As a first step in the work relating to payments law, the FCA is being given sufficient rulemaking powers and the Payment Systems Regulator (PSR) sufficient powers of direction for payment services and e-money to make replacements as REUL is repealed. The proposals to modify retained EU payments law for the FCA and the PSR, in order to align their powers in relation to these laws with their powers under their existing domestic regulatory frameworks, was consulted on in HMT's July 2022 ['Payments Regulation and the Systemic Perimeter'](#) consultation. As well as the PSRs 2017 and the EMRs 2011, the relevant EU legislation includes the Interchange Fee Regulation 2015 and the Payment Card Interchange Fee Regulations 2015.

The provisions in the [Electronic Money, Payment Card Interchange Fee and Payment Services \(Amendment\) Regulations 2023](#) (the Regulatory Powers Regulations) (made on 11 July 2023) include those that will:

- Amend the PSRs 2017 and the EMRs 2011 to remove the restrictions on the FCA's functions and extend aspects of the FCA's existing powers in the Financial Services and Markets Act 2000 (FSMA) to make rules in relation to client money and safeguarding assets, the control of information, and the appointment of auditors.
- Make minor technical amendments to ensure that relevant amendments which were made to FSMA by FSMA 2023, in relation to regulators' accountability, also apply to the FCA where it is exercising its functions under the Regulations. This includes the requirement for the FCA to have regard to the net zero emissions target, as part of its regulatory principles.
- Amend the Payment Card Interchange Fee Regulations 2015 to give the PSR an enhanced power of direction in relation to the Interchange Fee Regulation 2015 (as the primary piece of REUL that the PSR is competent for). This will align the PSR's powers of direction with those under its domestic framework in the Financial Services (Banking Reform) Act 2013.
- Amend the PSRs 2017 to grant the PSR an enhanced power of direction in relation to Regulation 61 (information on ATM withdrawal charges), for which it is responsible, to enable it to set regulatory requirements.

The Regulatory Powers Regulations are subject to phased commencement dates, with some provisions coming into force on 18 September 2023, some on 1 January 2024 and some (relating to the regulatory "have regard" to the net zero emissions target) on the day on which section 27 (Regulatory principles) of FSMA 2023 comes into force. An [explanatory memorandum](#) on the Regulations has also been published. A draft of the Regulatory Powers Regulations, which contained the provisions relating to the FCA's rulemaking powers, was published as part of the Edinburgh Reforms package in December 2022.

The government will now continue work to build a new regulatory framework that will, where necessary, replace the PSRs and EMRs. According to HMT's policy paper (see above), a first round of 'targeted reforms' is due before the end of 2023. Work on the remainder and the laying of an SI is due 'in 2024 onwards'.

Going forward, the government intends to use the [Regulatory Initiatives Grid](#) to provide stakeholders with an overview of the pipeline for regulatory updates on the SRF programme.

#### **Future of consumer information requirements for payment accounts: consultation response**

As part of the Edinburgh Reforms announced by the Chancellor in December 2022, HMT consulted on the need for certain customer information requirements under Part 2 and Schedules 1 and 2 of the Payment Accounts Regulations 2015 (PARs), which implemented the EU Payment Accounts Directive (2014/92/EU) (PAD), for the UK market. This is another legislative file in Tranche 2 of the government's SRF programme (see above 'Ensuring FCA rulemaking powers and PSR powers of direction are fit for work to repeal retained EU payments law'). For more on the consultation, take a look at our article '[UK government consults on future of consumer information requirements for payment accounts](#)'.

HMT has now published its [response](#) to the consultation. It is the government's view that there is limited negative impact of removing the requirements under Part 2 and Schedules 1 and 2 of the PARs (which include the provision of fee information documents and statements of fees), and potential risks are mitigated by other rules. For example, under the PSRs 2017 firms are required to provide monthly

transaction statements, the FCA's BCBS4 rules cover bank statements and information about retail banking services, and there is also the consumer understanding outcome under the FCA's Consumer Duty.

The government concludes that removing the requirements would not compromise customers receiving clear and transparent fee information. In fact, removing them would reduce regulatory burdens on industry and help firms innovate how they provide fee information to give customers a better experience.

More broadly, the decision to remove the PARs requirements aligns with the government's wider approach to delivering a SRF, under which the independent and expert regulators (here the FCA) generally take responsibility for setting detailed firm-facing requirements, within a framework set by government and Parliament.

The government therefore intends to revoke Part 2, Schedules 1 and 2 of the PARs and the related Binding Technical Standards and hand over responsibility for detailed firm-facing requirements on customer information requirements to the FCA. The [Financial Services and Markets Act 2023 \(Commencement No 1\) Regulations 2023 \(SI 2023/779\)](#) (the Commencement Regulations) (made on 10 July 2023) include a provision dealing with the revocation of the relevant PARs provisions which will take effect on 1 January 2024. According to HMT's policy paper (see above), a 'consequential SI' is also due to be laid before the end of 2023.

The government understands that the FCA is not planning to make rule changes in this area but will continue to hold firms to account on the standards that it sets through its supervisory activity.

Among other things, with effect from 29 August 2023 the Commencement Regulations also:

- amend the EMRs 2011 and the PSRs 2017 relating to critical third parties specified in Part 6 of Schedule 2 of FSMA 2023; and
- bring into force HMT's power to make regulations relating to digital settlement assets.

Note that FSMA 2023 already provides for the entry into force of its provisions relating to cash access services, wholesale cash distribution and authorised push payment (APP) scams on 29 August 2023.

### **EU perspective: PSD3 and digital euro legislative proposals**

The EU legislators have also been busy recently, with the European Commission publishing a number of legislative proposals on what has been dubbed by the industry as "Super Wednesday" (28 June 2023). These include legislative proposals:

- To improve the functioning of PSD2. The first is for a Directive on payment services and electronic money services, focussing on licensing and supervision of payment institutions (PSD3). The second is for a Regulation on payment services in the EU;
- To create a framework for financial data access, extending financial data access and use beyond payment accounts to more financial services (a financial data access (FIDA) framework);
- To establish a legal framework for a possible digital euro to complement euro banknotes and coins; and
- To safeguard the role of cash, ensure it is widely accepted as a means of payment and remains easily accessible for people and businesses across the euro area.

For more on the FIDA and payments package, see our article '[Evolution not revolution: European Commission publishes financial data access and payments package](#)'. For more on the single currency package, see the European Commission's [press release](#) and further related resources on our [Digital Assets and Blockchain Hub](#). Take a look at our article '[Towards a digital pound? Bank of England and HM Treasury consult on design for UK retail CBDC](#)' for more on the UK's digital pound work (as briefly referred to in the Chancellor's Mansion House speech).

### Next steps

If you would like to discuss any of the above developments, please get in touch with us.

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