

Confirmation of Payee - PSR consultation 19/14

Response from the BSA

Restricted
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 Building
Societies
Association

Set out below is the response from the Building Societies Association to the Payment Systems Regulator's (PSR's) consultation paper CP19/4 on Confirmation of Payee (CoP) issued in May 2019.

The Building Societies Association (BSA) represents all 43 UK building societies, as well as 5 credit unions. Building societies have total assets of over £400 billion and, together with their subsidiaries, hold residential mortgages of over £315 billion, 23% of the total outstanding in the UK. They hold almost £280 billion of retail deposits, accounting for 19% of all such deposits in the UK. Building societies account for 37% of all cash ISA balances. They employ approximately 42,500 full and part-time staff and operate through approximately 1,470 branches.

Summary

- We support the PSR's proposal to direct the largest payment services providers (PSPs) to a firm timetable for implementation of CoP - subject to any comments from the BSA member directly affected by the proposed timetable, we believe it to be reasonably achievable. However, implementation should be co-ordinated with firms planning together so that there is consistency in key areas such as user interface testing and communication to consumers.
- We agree with the PSR's plan that other Phase 1 PSPs should be allowed to implement CoP in their own time as soon as they can. However, "as soon as they can" is likely to be significantly later than the target timetable for directed firms. Feedback from relevant BSA members is that the market for outsourced CoP solutions is not sufficiently developed to meet demand from a large number of PSPs within a short timescale and that COP will anyway be competing for resource with implementation of Strong Customer Identification and other regulatory requirements.
- However, building societies and other PSPs who are to be covered under CoP Phase 2 are going to be at a competitive disadvantage compared to Phase 1 firms on APP fraud as they will not be able to offer their customers the same levels of protection and will not be visible as receiving banks on CoP enquiries until Phase 2 is implemented. With this in mind, we are particularly concerned that there is no firm timetable for Phase 2 yet and that technical issues around the Open Banking Directory are not being tackled with urgency so can only assume that these PSPs face an indefinite period of disadvantage.
- Unfortunately, the PSR's proposed timetable will keep highlighting this competitive disadvantage as it will provide regular opportunity for consumer groups, media and consumers themselves to compare and contrast different levels of protection. It is unlikely that any of these parties will accept technical points about sort codes as grounds for apparently making no effort to protect customers in the same way that their competitors do.
- The consumer group Which? has already indicated such a position with a challenge that "The regulator must ensure that all banks introduce vital name-check security (confirmation of payee) no later than its new deadline of March 2020". We would appreciate early engagement with the PSR on plans to respond to Which?'s challenge.
- The BSA and our members will commit to working closely with PSR, Pay UK and other appropriate bodies to support implementation of both phases of Confirmation of Payee.

The PSR's Proposal

We support the PSR's proposal to direct the largest PSPs to adopt a fixed timetable for implementing Confirmation of Payee. In our reply to the PSR's consultation of November 2018 we agreed with the need for a timetable to give both PSPs and consumers certainty around delivery of Confirmation of Payee. The PSR's current proposed timetable for the big 6 of responding to CoP requests by 31 December 2019 and a full service by 31 March 2020 appears reasonable from an outsider's standpoint but the BSA member directly affected by the proposed timetable is in a better position to comment on this.

However, implementation should include a co-ordinated programme of work so that firms plan together for key implementation matters such as user interface testing and communications to consumers. Establishing a framework for co-ordinating testing and communications will also help smaller PSPs when they launch CoP services as well as providing the consumer with a consistent, user-friendly introduction to the service.

We also supported some form of sub-phasing within Phase 1 of CoP to take into account different states of readiness and the scarcity of solution providers available to smaller PSPs. We agree with the PSR's contention that other Phase 1 PSPs should be allowed to implement CoP in their own time as soon as they can.

However, "as soon as they can" is likely to be significantly later than the target timetable for directed firms:

- Feedback from relevant BSA members is that the "developing" market for outsource solution vendors for CoP is still not at enough capacity to meet the needs of a significant number of PSPs all looking to implement CoP solutions within a similar timeframe.
- Firms already have a heavy regulatory workload during 2019-20 – CoP will be competing for resource against PSD2 Strong Customer Identification (from September 2019), operational resilience management (October 2019) and transposition of the 5th Money laundering Directive (January 2020) plus preparations to allow them to participate in the CRM Code.
- Adding CoP requirements to an already burdensome regulatory agenda is particularly challenging for smaller PSPs with limited technical development and management oversight resources.

PSPs unable to give their customers the same level of protection as larger firms

While we understand the technical distinctions between accounts with and without their own unique addressable sort code, the PSR's decision to introduce CoP in two phases has created a group of PSPs now in the unhappy position of being unable to respond to competitive pressure and give their customers the same level of protection as larger firms:

- This will result in two-tier APP fraud protection with C.4 million building society customers plus customers of challenger banks and credit unions less protected.
- On top of this, any consumer wanting to use CoP to validate transfers to Phase 2 PSPs will be unable to do so as these firms' sort codes will not match with the open banking

directory used for CoP until Phase 2 is completed– which also has potential to affect the competitive position of those firms.

This creates the following risks:

- Reputational risk for those PSPs in being seen to be outside of CoP and not offering our customers the same protections and associated adverse media coverage (see Which? example below).
- Risk that, without visible access to Confirmation of Payee, criminals will view these PSPs as an easier target than firms who are CoP participants, both in terms of targeting customers for fraud and targeting building societies / credit unions for laundering the proceeds of fraud and other crime.
- Competition risk that all of the above will drive customers away from building societies and others in favour of Phase 1 firms that are perceived as more active in protecting them against fraud.

Unfortunately, another consequence of the PSR’s proposed timetable is to keep highlighting their competitive disadvantage as it will provide regular opportunity for consumer groups, media and consumers themselves to compare and contrast different levels of protection. It is unlikely that any of these parties will accept technical points about sort codes as grounds for apparently making no effort to protect customers in the same way that their competitors do.

AN EXAMPLE OF REPUTATIONAL RISK – WHICH?

On 22 May 2019, in the run up to the launch of the CRM Code on APP fraud reimbursement, Which/ published a press release “New industry code must deliver, says Which?, as £674 a minute is lost to bank transfer scams”.

Which? publicly demanded that the industry meets five tests that Which? judges critical to ensuring progress towards tackling APP fraud – these cover both the CRM Code and Confirmation of Payee.

The tests includes the following on Confirmation of Payee – “The regulator must ensure that all banks introduce vital name-check security (confirmation of payee) no later than its new deadline of March 2020. The latest delay will cost people an additional £109m in losses while they wait for this important measure”.

Which? further states that “the consumer champion will not hesitate to demand intervention from the regulator if it fails to deliver for consumers”.

We appreciate that two-tier APP fraud protection is obviously not a successful outcome for the PSR either as the above situation clearly doesn’t deliver on PSR’s key statutory objectives – in particular the objectives “to ensure that payment systems are operated and developed in a way that considers and promotes the interests of all the businesses and consumers that use them” and “to promote effective competition in the markets for payment systems and services - between operators, PSPs and infrastructure providers”.

But, we note with concern that this consultation confirms that the timeline for delivery of Phase 2 is “yet to be determined” as “it will be influenced by the implementation of Phase 1 and whether the Open Banking Implementation Entity can make relevant changes to the Open Banking Directory” – i.e. that Phase 2 firms will be facing this competitive disadvantage for a significant, indefinite period.

Next steps

The PSR has a key role to play in addressing the challenges posed by Which? around delivery of Confirmation of Payee – in particular explaining how decisions on phasing the introduction of CoP have left some firms have been left with their customers less protected.

The BSA and other affected trade bodies would welcome early engagement on plans to respond to Which?.

We are also keen to work with the PSR and others to develop design standards and a firm delivery timetable for CoP Phase 2 and then implement that in good order:

- We look to the PSR as the relevant responsible regulator to do all it can to minimise Phase 2 firms' exposure to competitive disadvantage by actively seeking resolution of the timing and Open Banking Directory issues mentioned in this consultation.
- We would like to see regular stakeholder updates from the PSR on progress with Phase 2 – the PSR as the relevant regulator is in a unique position to provide updates and follow up on issues / concerns.
- We have already established good dialogue with Pay UK and welcome their invitation for building societies to join their CoP Phase 2 Advisory Group – an invitation that a number of our members have already taken up.

The BSA and our members will commit to working closely with PSR, Pay UK and other appropriate bodies to support implementation of both phases of Confirmation of Payee.

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The Building Societies Association (BSA) is the voice of the UK's building societies and also represents a number of credit unions.

We fulfil two key roles. We provide our members with information to help them run their businesses. We also represent their interests to audiences including the Financial Conduct Authority, Prudential Regulation Authority and other regulators, the Government and Parliament, the Bank of England, the media and other opinion formers, and the general public.

Our members have total assets of over £400 billion, and account for 23% of the UK mortgage market and 19% of the UK savings market.