



## Meeting Summary:

### FCA/Payments Trade Bodies (TAs) Liaison Meeting

Thursday, 19 September 2024

#### 1) Policy Update

- a) **Risk based approach to payments:** The FCA is consulting on guidance in response to amendments made by HM Treasury to allow PSPs to have more time to process payments where there are reasonable grounds to suspect fraud or dishonesty. The FCA welcomes industry views on the proposed guidance and will hold a roundtable to gather further feedback before the consultation closes on 4 October 2024. TAs are welcome to contact the policy team directly for any questions or clarification.
  
- b) **Safeguarding proposals:** Publication of the consultation paper setting out the proposals is imminent. The FCA is concerned about how firms are safeguarding customer funds and the issues arising on insolvency and wants to ensure that funds hold the right amount of money, at the right time, for the right customers and with the right records. The FCA commented that whilst there are a few bad actors, it sees poor practice with a significant number of firms not following the rules, particularly when it comes to record keeping. The consultation will set out these concerns and the issues arising from the current regime. The FCA is consulting on **two sets of rules: interim rules and final rules** over a 3-month consultation period, during which time the FCA will host a number of roundtables to gather stakeholder views. This is the first consultation paper to undergo review by the independent Cost Benefit Analysis panel.
  
- c) **Payments Regulatory Framework:** The FCA is working with HM Treasury in relation to the PSRs and EMRs, to ensure that the regulatory regime for payments achieves the FCA's broader competition, growth and consumer protection objectives. The FCA is also working with the government in terms of

its vision for the payments industry, in line with the National Payments Vision which is expected later this year. Regarding the review of the EMRs and PSRs, the FCA is looking at policy changes it wants to make. The FCA cannot provide a timeline as this depends on the government's priorities. Once HM Treasury has made the Statutory Instrument granting the FCA power to make the rules, the FCA will be able to proceed.

- d) **APP Scam Reimbursement Requirement:** The FCA will be monitoring compliance with the new rules alongside the PSR and will be involved in the PSR's review of the regime, 6 months post implementation. TAs can raise queries with the FCA policy team either directly or via the cross-TA meetings.

## 2) **Consumer Duty**

The FCA has completed its review and will publish its findings within the next few weeks. The FCA will be sending a link to every firm and the TAs and wants every firm to consider how the findings apply to them. The FCA has responded to the TAs request for more detail around good and best practice, and the report contains examples of these. The FCA's findings are quite mixed; some firms are performing well in implementing the Duty, but there are others who have not engaged fully or have not implemented the Duty as the FCA would expect. The best firms have built the Duty into their way of operating, have a clearly defined purpose and a strong customer focus. Some firms did not have appropriate management information in place, making it difficult to identify whether they were delivering good customer outcomes or not. Some firms had a very clear definition of who their target market was and could adjust their controls appropriately if consumers outside of the target market were buying the product. In contrast, the FCA has found firms defining their target market as 'mass market', making it potentially very difficult for the firm to identify whether or not the product or service user could benefit from the product. The FCA provided an example of a product that offers good rates on foreign exchange with a target market of young, upwardly mobile professionals who use it as a current account, but which is also used by people outside of the target market, such as older people going on holiday.

## 3) **Review of FCA Requirements following the Consumer Duty**

The FCA is aware that the FCA Handbook has changed substantially over the years and wants to see how it interacts with the Consumer Duty and how the Handbook can be used to support the FCA's secondary international competitiveness objective. The FCA is looking to see where there are areas of duplication, or where the rules are ineffective in achieving the outcomes the FCA wants to achieve. The FCA welcomes comments on moving the payments requirements out of law and into the FCA handbook, which HM Treasury wants to see over time as part of the Smarter Regulatory framework.

A number of TAs commented that as there are very few rules in the Handbook that apply to the payments sector, they would not be responding to the consultation. The FCA is looking for general views but will consider if the right questions are being asked of the sector.

#### 4) **Authorisations**

There has been a slight decrease in applications this year. The approval rating for small payments institutions is currently 15% and for e-money institutions the approval rate is around 22% which is an improvement. The FCA continues to allocate applications to a case officer within 21 days of receipt and the average age for an open case is currently just over four months. The FCA is currently taking 4.5 months on average to close cases from receipt and it takes about 9.5 months on average for a successful application to close from receipt.

To improve applications, the FCA has been offering more pre-application meetings with firms and this has resulted in better quality applications. The FCA cannot offer meetings to every firm. The FCA continues to remind firms of the rejection process; if firms do not provide the minimum information they are asked for, or they have failed to pay the right application fee, or they ignore FCA feedback in a resubmission, the application will be rejected. Among the top reasons for unsuccessful applications are firms submitting templated documents and policies. For successful applications, the FCA continues to refer applicants to the FCA's early and high growth oversight department post authorisation. The FCA will consider widening access to pre-application meetings

#### 5) **Gateway forms transformation programme:**

The FCA is working on improving the authorisation forms to make them more accessible and easier to complete and submit. So far, the FCA has improved Form A (Senior

Manager and Controlled Function application), which is one of the most frequently submitted forms, upgraded the Sensitive Business Form and has started to review the payments and EMD agents forms. The FCA is carrying out user testing and welcomes feedback, particularly from smaller firms.

## 6) TA Feedback

- a) **Open Finance Association** → Visa Account to Account payments launch presents potential competition issues in view of work being undertaken by JROC and the commitment of firms to fund future work. The FCA will reflect on these observations in its capacity as joint Chair of JROC and conduct regulator.
- b) **EMA** → Request to cover AML and financial crime in terms of what the FCA is seeing and/or is concerned about and in view of NCA referencing the payments sector as being particularly vulnerable.
- c) **PIF** → Request for overview of FCA approach in working with/cooperating with European regulators, and the extent to which the FCA direction of travel is aligned with other jurisdictions,