Insights

UK PAYMENT SERVICES REGULATION: AT A CROSSROADS

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Introduction

HM Treasury's consultation *Modernising Payment Services Regulation* closes on October 6. It invites stakeholder feedback across a wide range of proposals, including the structure of regulation, tokenized deposits and stablecoins, agentic payments, senior management accountability and Open Banking.

The consultation marks an important juncture, as the UK begins to diverge from the EU, which is introducing its Third Payment Services Directive ("**PSD3**"). As explored below, the consultation provides an insight into the future direction of UK payment services regulation and, more generally, HM Treasury's approach to financial services policymaking post-Brexit.

Delegation to the FCA

HM Treasury proposes moving the firm-facing requirements currently set out in the Payment Services Regulations 2017 (the "**PSRs**") and the Electronic Money Regulations 2011 (the "**EMRs**") into the FCA's Handbook. However, core provisions, such as the list of regulated payment services and the definition of e-money, would remain in legislation.

This is a welcome rationalization. At present, payment services regulation sits in the PSRs and EMRs as a legacy of EU transposition. Going forward, adopting the "FSMA" model, under which the perimeter is set out in legislation and conduct-of-business requirements are contained in the FCA Handbook, will make the framework more coherent and easier to navigate for firms and their advisors.

This contrasts with the EU's approach, where PSD3 will bake conduct of business requirements into a new Payment Services Regulation ("**PSR**") with a view to promoting consistency across the EU. Nevertheless, the provisions in PSD3 and the PSR may yet influence the UK, as HM Treasury has asked which international regulatory developments it should incorporate into its updated framework. As such, it seems the UK is open to taking a "pick and mix" approach to EU regulation.

The consultation also proposes restructuring the regulated activities themselves. For example, merging the services of placing and withdrawing funds into a single payment-account activity, and splitting acquiring from card issuing. Whilst this also appears a sensible development, firms will want to consider the impact on their own permissions.

Tokenized payments and stablecoins

HM Treasury is preparing UK payments regulation for the adoption of cryptoassets. Its approach is to be technologically neutral: the same permissions would apply regardless of whether a payment is made using fiat money, a tokenised deposit or a regulated stablecoin, reflecting the principle of "same risk, same regulatory outcome".

Stablecoins issued in the UK and in recognized jurisdictions would be treated as money-like and subject to payments regulation. Others would instead be regulated under the Financial Services and Markets Act 2000, where they are treated as akin to securities. To avoid firms having to obtain two sets of permissions for the same activities, HM Treasury intends to carve UK/recognized jurisdiction-issued stablecoins out from the cryptoasset intermediary activities in certain cases (e.g. dealing as agent).

At the same time, HM Treasury is also mindful that tokenised and non-tokenised payments may present different risk profiles. Its current proposal would therefore require authorized or registered firms to obtain a variation of their permissions before providing tokenised payment services. Subject to the outcome of the consultation, firms wishing to provide their customers with stablecoin wallets should factor the need for a VoP application into their forward planning.

The drive towards tokenised payments has been underlined by the announcement that the Bank of England is to be given a secondary payments innovation objective. Given the additional responsibilities being given to the FCA, firms will have to hope that its existing secondary international competitiveness and growth objective will allow the FCA to strike an appropriate balance between consumer protection and fostering innovation.

Agentic payments – how to build trust

HM Treasury recognises that the PSRs may not accommodate AI agents executing payments on behalf of consumers or businesses. For instance, existing authentication requirements are predicated on checks being applied on a payment-by-payment basis. The consultation therefore invites views regarding the necessary changes.

Before agentic payments are widely adopted, individuals will have to place significantly more trust in AI agents than they currently do. How liability is allocated for wrongfully executed agentic payments, and the recourse available to customers, may help to lay the foundations for such a cultural shift. However, payment service providers will be keen to ensure that liability is borne by technology providers where the latter are able to influence outcomes, as arguably failed to happen with APP fraud.

Accountability for financial crime risks

The consultation also asks whether "further accountability mechanisms" for senior managers of payment and e-money institutions would better support risk management and help tackle financial crime. This follows the UK's 2025 National Risk Assessment, which identified elevated risks within the sector.

Management accountability continues to be a significant issue across UK financial services, with reforms ongoing to the Senior Managers and Certification Regime ("**SM&CR**"). As far back as 2021, the FCA indicated a desire to extend the SM&CR to payment and e-money institutions. However, the consultation does not explicitly resurrect this proposal, so HM Treasury may be contemplating lesser measures.

The FCA's focus in this area was recently demonstrated by the investigation announced against Euro Exchange Securities UK Ltd. Firms should therefore anticipate scrutiny of how financial crime risks are managed through their supervisory interactions. However, given the international nature of recruitment for many fintech businesses, any new requirements will need to be carefully calibrated to ensure they do not unduly deter individuals from accepting MLRO positions in the UK.

Open Banking

The consultation also proposes to place the FCA at the heart of Open Banking regulation. This is made possible by the Data (Use and Access) Act 2025 (the "**DU&A Act**"), which allows HM Treasury to delegate powers to the FCA. This represents a shift from a model that is currently a patchwork between the PSRs and the CMA's Retail Banking Market Investigation Order 2017 to a more coherent framework.

HM Treasury proposes two main tracks: first, a new right of access in relation to variable recurring payments in the PSRs; and second, an updated framework under the DU&A Act governing how account access is facilitated, including granting the FCA powers to regulate the Future Entity and commercial Open Banking schemes.

The FCA will be able to explore whether to transition account access currently provided for free onto a commercial basis. Access provided under the proposed new right for variable recurring payments would not be free, except in relation to "sweeping".

With Open Banking yet to be a widespread success story, only time will tell whether these measures can spark the emergence of new business models and promote "pay by bank" as a competitive alternative to cards.

Next steps

We expect HM Treasury to take some months to consider responses, before publishing draft secondary legislation. The FCA will then likely begin its own process to develop rules in its Handbook, which will provide a further opportunity for stakeholders to shape the future framework.

If HM Treasury gets its approach right, the regulatory framework will emerge as more coherent, and the UK may be able to legitimately claim it has been nimble in supporting developments like agentic payments. By contrast, growing divergence from the EU is unlikely to be welcomed by the many businesses with a footprint on both sides of the Channel, given the inevitable costs this brings. Further, the concentration of yet more powers within the FCA will make its accountability mechanisms even more important in the future.

The consultation closes on October 6, 2026. Please let us know if you would like to discuss any of the issues it raises.

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