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# Minutes

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**Minutes of the meeting of the  
E-MONEY STAKEHOLDER LIAISON GROUP  
Held on 26 July 2010 - 15:00  
At FSA, Committee room E**

Present: Jean Cooper - Chair (JC) – FSA  
Jody Whitehorn (JW) – FSA  
Nicola Williams (NW) – FSA  
Alison Donnelly (AD) – FSA  
John Burns (JB) – FSA  
Brian Garcia (BG) – HMT  
Mark Ford (MF) – FSA  
Robert Courtneidge (RC) – Prepaid International Forum  
Kiron Farooki (KF) – Post Office Ltd  
Jacqui Tribe (JT) – UK Cards Association  
Andrew Hopkins (AH) – Building Societies Association  
Victoria Lloyd (VL) – UK Gift Card and Voucher Association  
Meredith Pearson (MP) – MBG  
Dominic Peachey (DP) – E-money Association  
Farzana Afzal – Minutes (FA) – FSA

Apologies: Stefan Marx – British Bankers’ Association  
Hamish MacLeod – MBG  
Andrew Johnson – UKGCVA  
Siobhan Moore—UKGCVA

| <b>Minute<br/>No</b> |  | <b>Action</b> |
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| 1.                   | <b>Item 1: Introductions and Terms of Reference</b><br><br>The meeting began with introductions. JC reported that the Terms of Reference (ToRs) had been updated to reflect changes to FSA personnel.  |               |
| 2.                   | <b>Item 2: Minutes from the previous meeting</b><br><br>The minutes from the previous meeting had been published on the FSA website and were inclusive of comments received. The outstanding action regarding formulation of the questionnaire for industry is currently being finalised, and a draft will be circulated shortly to SLG members. |               |

**3. Item 3: HMT update on policy choices & consultation process**

BG presented the key issues on implementing the e-money directive. With regards to the timeline, it is still intended that the Treasury will consult in September, that the Regulations will be laid before Parliament in December and would mostly come into effect on 30 April 2011.

BG highlighted the problem of how to define 'limited networks'. He questioned whether the definition should include multiple legal entities covering one or more brands and suggested that it would be best to allow a judgement to be made on a case by case basis as it may cause future problems if it is closely defined in legislation. In this case, guidance may be issued by the FSA or the Treasury or both.

BG outlined the issues surrounding safeguarding. He queried where the boundary should lie between the regulated and unregulated sector. Consumers are directly impacted if a firm in the unregulated sector goes into administration. He questioned what should be done about credit institutions that issue e-money as they are not subject to capital requirements for e-money. He also asked whether the unregulated e-money sector, i.e. those outside the scope of the Directive, could be encouraged to sign up to a voluntary code which includes appropriate safeguarding arrangements.

A brief discussion on expiry and redemption ensued; BG commented that in future, when a contract expires. The e-money it is linked to does not as the consumer has the right of redemption. Issuers are responsible for providing this redemption facility and may charge a proportionate fee for providing this service.

BG outlined proposals under the Waiver which would see substantial changes for small issuers. BG queried if the group had any thoughts on the proposed flat cap on own funds 250,000 euros and thoughts on the float limit proposals of five million euros.

JB suggested including references to fit and proper testing in the requirements for small e-money issuers. BG agreed that this should be included.

JB further commented that 2EMD rules would be proposed so that ring fenced funds cannot be used for any other operation.

JC commented that there is likely to remain a grey area around what consumers perceive to be e-money. KF suggested there should be clarity for consumers around why some firms are regulated and some are not.

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- BG commented that government intervention had not yet been considered and that Ministers may prefer a 'lighter touch' so this needs to be given more thought.
- RC queried whether consumers would be prepared to pay extra for the security of dealing with a regulated firm.
4. JC queried if the group had any thoughts on the Waiver and small e-money issuers.
- There was a short discussion regarding storage limits and who they would apply to and whether the proposed limits would act as barriers to entry. KF queried whether safeguarding alone would be sufficient. JC noted that there would also be the proposed fit and proper test for those persons running small e-money institutions.
- BG commented that he would be happy to meet bilaterally with any interested party to discuss any of the issues raised in the presentation, adding that many of these would be covered in more detail in the consultation. JC added that the FSA will be consulting after HMT. This will mainly cover amendments to PERG, DISP, anti-money Laundering and Fess. RC added it may be useful to include expiry and systems to the list.
- JC commented that it is assumed that the PSD model will be followed but that we expect the consultation to be short and that while the subject of fees will be flagged in the consultation, it will be fully consulted on in the October Quarterly Consultation Paper.
- RC expressed concern that some issuers could start a programme which is currently within scope but following implementation would be out of scope. He raised the issue of run off for existing programmes which fall out of scope post 2EMD as re-carding these programmes and changing terms and conditions is a very costly process. He asked whether the FSA would be able to show some forbearance. JC commented that while the activity remained regulated, firms would need to be authorised or registered to carry it out and that the exiting processes for surrendering authorisation would apply.
- RC also asked about voluntary registration of schemes which were excluded because of the limited network definition and whether the FSA would allow it and, if so, on what basis.
- JC commented that the FSA will contact all regulated firms before 1 April to discuss any such issues ahead of time adding that HMT are likely to make references to such issues in their consultation.

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**5. Item 5: Content of 2EMD Approach Document**

JB introduced the item outlining proposals to develop an Approach Document for the 2EMD similar to that which was developed for the PSD. The document will be a 'living' document and will contain cross links to the PSD approach document to address any areas of overlap.

JC requested any feedback or issues with this approach be fed back. JB gave an outline of the document explaining that it was designed to capture any issues of concern and overlap. Issues highlighted were safeguarding where it was queried if a cross-reference to PSD would suffice. It was agreed that the primary use for the document would be as a reference manual and that cross referencing to PSD would be limited and appropriate.

JC commented that the group will be consulted once the document had been drafted.

KF queried whether the PSD approach document and the 2EMD approach document would be updated together going forward. JB clarified that it would depend on the frequency of updates although initially the two are likely to be updated together.

**6. Item 6: Outline of the applications process**

MF updated that the process will be very similar to that of the PSD, the only significant difference being that those firms which are already authorised will be grandfathered.

**7. AOB**

JC said that the date for the next meeting is to be confirmed but it was agreed that it would be useful to hold the meeting after HMT's consultation was published in September.

There was a brief discussion on how payments held on cards will affect issuers where the holding fee will eventually eat away at profits, furthermore the length of time that e-money can sit on card was queried.

JW commented that many of these issues were deep and tricky and had not yet been thought through in depth, but that they would be explored in the FSA consultation.

The meeting concluded.