

Telephone: 020 7066 9346

Email: [enquiries@fs-cp.org.uk](mailto:enquiries@fs-cp.org.uk)

Payments Consultation  
Banking & Credit Team  
Floor 1, Yellow  
HM Treasury  
1 Horse Guards Road  
London, SW1A 2HQ

10 October 2012

Dear Sirs

## **Setting the strategy for UK payments**

This is the Financial Services Consumer Panel's response to the HMT consultation on setting the strategy for UK payments.

### **Overview**

The Panel has long argued that features of the UK's payment system should be brought within financial services regulation. The cheque debacle, where the Payments Council was forced to overturn its decision to phase out cheques following political pressure, highlighted the risks of allowing an industry dominated body, without clear public or regulatory accountability, to take major decisions that have a significant impact on users of financial services. This caused anxiety for many consumers.

The consultation sets out three potential options for reform. The Panel firmly believes the first option – enhancing self-regulation – is not sufficient to address the deficiencies in the current approach. While the Payments Council has taken steps to address some of the criticisms levied at it, we still feel the needs of consumers are not fully considered and the implementation of initiatives has taken too long.

The Panel recognises the motivation for establishing a Payments Strategy Board as set out in the Government's second option for reform. However, we feel the disadvantages of this approach have not been fully considered and must be addressed if the Government proceeds with this approach. The Panel has a number of concerns with this approach including:

- no mechanism to compel the industry to act on the recommendations of the Strategy Board – while we recognise any recommendations would be made public, there is no guarantee the industry would take these forward;
- where recommendations are taken forward, there is no regulatory accountability to ensure they have been delivered in a timely manner and to the benefit of consumers;
- the Payments Council, or alternative coordination body, would remain an industry funded trade body which would, be likely to put its members' interests above those of consumers;

- as membership of any coordination body that would respond to the Strategy Board's recommendations would not be mandatory, there is a risk of ineffective coordination across the industry and individual firms could exclude themselves from any initiatives which are taken forward; and
- it is not clear whether the Financial Conduct Authority (FCA) would be able to effectively oversee the work of the Strategy Board.

Before committing to establishing a Payments Strategy Board, and in addition to addressing our concerns with this approach, we firmly believe the Government should fully consider the benefits of creating a new regulator to oversee payment structures or charging the FCA with fulfilling this role. The Panel feels there may be merits in this approach which should be fully explored. This includes ensuring:

- the needs of consumers are fully considered and are central to any initiatives which are taken forward;
- initiatives are introduced in a timely and consistent manner by all payment services providers;
- the disadvantages and weaknesses in the current self-regulatory approach are addressed; and
- if the FCA was given regulatory responsibility, the UK payments landscape is not further complicated by creating another body with responsibility for the UK's banking and payments services.

Whichever option the Government decides to implement, the Panel believes it is essential that the governance and direction of UK payment systems is underpinned by four key principles:

- *Focus on delivering good consumer outcomes* – the needs of consumers should be the central and overriding consideration when developing and taking forward payment services initiatives.
- *Independence* – the organisation, or organisations, which set and implement the strategy, should have sufficient independence so they are not unduly influenced by a single or limited number of payment services providers.
- *Accountability* – these organisations should be accountable to the appropriate regulator and Government, with the regulator empowered to take action where the organisation is not fulfilling its responsibilities.
- *Appropriately funded* – the relevant organisations should have an appropriate funding model to enable them to plan and operate on a long-term basis. We consider it unacceptable that funding restrictions could force an organisation to have an inappropriately short-term focus to its work.

## Detailed questions

**Question 1 - Do you agree that the creation of a Payments Strategy Board:**

- ***should be the lead Option for reform,***
- ***provides the appropriate balance between Government intervention, impact and cost, and***
- ***effectively tackles the issues the Government has set out?***

***Please provide evidence where appropriate to support your answer.***

As we outlined in our *overview* to this response, the Panel believes the creation of a Payments Strategy Board might be an appropriate step given the failure of industry self-regulation. However, the Panel feels there are a number of weaknesses to this approach (as listed in our *overview*) which the Government must address before proceeding with this option. Furthermore, we also feel the potential benefits of charging a new regulator or the FCA with responsibility for the UK's payment system should be fully explored before dismissing this approach.

***Question 2 - The following questions relate to the changes the Government would expect the Payments Council to implement under Option 1. Some of the changes will also be considered if the Government proceeds with Option 2.***

- a. Do you agree that the current remit and objectives of the Payments Council are broadly appropriate? If not, how should they be enhanced?***
- b. How can a clearer separation of the Payments Council's strategy setting and trade body representative functions be best achieved?***
- c. Do you agree that the Payments Council should commit to publishing annual progress reports against its objectives, supported by regular, independent performance reviews?***
- d. Do you agree that any two independent directors should have a right of veto over board decisions? The Government invites views on how the Payments Council's board can be strengthened further.***
- e. Do you agree that the existing user forums should be given enhanced functions and autonomy by being upgraded to independent User Councils?***
- f. How can Payments Council funding be put on a long term, secure footing?***
- g. How should a reconstituted Payments Council be given the means to enforce decisions more effectively in a self-regulatory environment?  
and***
- h. How can the membership of the Payments Council be broadened most effectively?***

As we set out in the *overview* section to this response, the Panel firmly believes the first option for reform – enhancing self-regulation – will not address the failures in the current approach to set and take forward the strategy for UK payments. The Payments Council's mishandling of the debate on whether to end the use of cheques directly led to unnecessary distress and anxiety among many consumers. It is also taking too long to implement initiatives which could potentially benefit consumers, such as mobile payments and the bank account switching service. For this reason, the Panel strongly opposes simply taking forward Option 1.

If the Government elects to proceed with Option 2 and the Payments Council has a role to take forward the Strategy Board's recommendations, the Panel believes a number of changes are needed within the Payments Council to enable it to fulfil the function effectively. While we recognise the Council has taken steps to address some of the criticisms levied at it, we feel further changes are needed:

- the needs of consumers must be the central and overriding consideration of the Council – we suggest this is reflected in its objectives;

- the Consumer User forum, which the Panel is an existing member of, should move from a passive sounding board to a group empowered to set its own agendas and work programmes;
- the Council should publish annual progress reports against its objectives and commission regular independent performance reviews;
- the largest Council members should not be able to exercise excessive influence over its future projects;
- the Council should have a secure long-term funding model to enable it to take forward the Strategy Board's recommendation – there may be merit in setting membership fees on a three-yearly rolling basis;
- the board of the Council should have more independent members, with power granted to just two independent members to veto a board decision; and
- there should also be greater consumer representation on the board.

**Question 3:**

- Do you agree with the proposed remit for a new Payments Strategy Board?***
- Do you agree that the Payments Strategy Board should make recommendations to the payments industry, rather than requiring action? If you consider mandated action to be appropriate, please set out how such a method could work most effectively.***
- Do you agree that the Payments Strategy Board should include senior industry representatives, non industry representatives and independents? What do you consider to be the right composition of the Board?***
- Should the Payments Strategy Board have a formal information gathering power? If yes, what information should be covered by such a power, and what should an appropriate enforcement mechanism be?***
- Do you agree that the Payments Strategy Board should be funded by an FCA levy on the payments industry?***
- Should the FCA have any further controls over the Payments Strategy Board?***

Before the Government proceeds with its proposal to set up a Payments Strategy Board, the Panel believes a number of potential weaknesses to this approach should be addressed. We have set these out in the *overview* to this response. We also feel the Government should fully consider the benefits of establishing a new regulator to oversee payment structures, or charging the new FCA with responsibility for this, before deciding how to proceed.

Yours faithfully,

Adam Phillips  
Panel Chair