

Specific Direction 10 requiring the introduction of Confirmation of Payee

August 2019

Varied February 2020

Specific Direction 10: Confirmation of Payee

1 Recitals

Whereas:

- 1.1** Confirmation of Payee (CoP) is a process that aims to reduce fraud and misdirected payments in electronic bank transfers. It checks the name of the payee against the details given by the payer.
- 1.2** The Payment Systems Regulator (PSR) expects that introducing CoP for transactions made between accounts held in the United Kingdom will significantly reduce the number of authorised push payment (APP) scams. In these scams, a fraudster tricks someone into sending money to an account that the payer believes is legitimate, but is in fact under the control of the fraudster.
- 1.3** Without CoP, banks use unique identifiers (usually sort code and account number) entered by the payer to identify the receiving account – although the intended payee's name may be provided, there is no agreed way of checking the name against the account to which the unique identifiers relate. CoP checks should significantly lower the risk of payments being misdirected by accident or because of fraud.
- 1.4** Therefore, introducing CoP for the Faster Payments Scheme (FPS) and CHAPS will be a valuable tool in preventing fraudulent or accidental misdirection. These are the biggest volume push payment systems in the United Kingdom used for sending money between different payment service providers (PSPs).

PSPs may still decline to process transactions for commercial reasons, or if they:

- suspect fraud or the likelihood of accidental misdirection
- are otherwise prevented by law from processing a payment

- 1.5** Although a range of PSPs have indicated that they will introduce a CoP process for payments involving accounts at different PSPs held in the United Kingdom, progress on implementing CoP has been slow. The benefits associated with CoP depend, to a significant degree, on its widespread introduction. This is because transactions that use FPS and CHAPS take place between accounts held at different PSPs, and CoP will only work if both PSPs involved in a transaction offer the service.
- 1.6** FPS and CHAPS are designated by HM Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 ('the Act') for the purposes of Part 5 of the Act. This means we may give a direction in relation to them under section 54 of the Act.
- 1.7** The PSR has decided to require certain PSPs to introduce processes for sending and responding to CoP requests. They must introduce the processes to specific deadlines.

Giving this direction will ensure that CoP is introduced in a way that is highly likely to achieve our objective – a significant reduction in losses due to APP scams and accidentally misdirected payments.

1.8 In deciding whether to give the direction, who to direct, the deadlines to be imposed and what the CoP process should be, the PSR has taken the following into account:

- a. The PSPs that we give this direction to were either the sending or receiving PSPs, or both, for approximately 90% of the total volume of transactions over FPS and CHAPS in 2018 (and that it is appropriate, where participants in FPS and/or CHAPS are members of the same banking group, to aggregate the volume of transactions by those PSPs when considering which PSPs should be directed).
- b. Therefore, directing those PSPs to introduce the CoP process as required by this direction will result in its widespread use for transactions over FPS and CHAPS.
- c. This will make it highly likely that the PSR's objective will be achieved.
- d. Based on information provided, the PSR considers that:
 - the directed PSPs will be able to comply with the deadlines in the direction for responding to, and sending, CoP requests
 - those deadlines are the earliest dates that we can require CoP to be introduced
- e. Pay.UK has developed rules and standards for CoP. PSPs, in particular those that we give this direction to, are aware of these rules and standards.
- f. Those rules and standards, if implemented, would provide an appropriate CoP process.
- g. Those rules and standards currently only relate to proposed transactions between accounts identified by sort code and account number.
- h. Those rules and standards do not currently provide for a CoP process where the sending or receiving account (or both) for a proposed transaction is held abroad. Only that part of an international payment journey that takes place within the United Kingdom will be done over FPS or CHAPS, as they are UK payment systems.
- i. Those rules and standards do not currently provide for a CoP process where the proposed transaction being made is a bulk payment, where a PSP uses an account receiving money to aggregate sums of money before sending them to the relevant accounts of individuals (these are often known as Head Office Collection Accounts), where the receiving account is a suspense account, or where the proposed transaction is an unattended payment (that is, the PSP is providing technical access to FPS or CHAPS to the person sending the funds and therefore the usual actions taken by the sending PSP on a CHAPS or FPS transaction are not carried out by it).
- j. The direction should only cover proposed transactions involving accounts that the Pay.UK rules and standards currently relate to.

- k. It is not necessary or desirable to require a CoP process where the funds are being transferred between financial institutions for their own purposes or in connection with other wholesale activity for financial institutions, to require a directed PSP to carry out a CoP process where the proposed transaction is being carried out by an indirect PSP for one of that PSP's customers, or to require a CoP process where the instructions are provided by post (or by email, fax, or hand-delivered to the branch but processed when the customer is not present).
- l. With the introduction of CoP, a payer will face an additional process, and therefore friction in carrying out the transaction – particularly if the response to the CoP request is that there is no match, or a close match that requires further consideration.
- m. The direction should only require a CoP check to be carried out the first time the PSP's customer provides the details necessary to pay a new payee (or amends the unique identifiers in relation to an existing payee), whether or not funds are sent immediately following the provision of the details.
- n. It is appropriate to require directed PSPs to report on their progress in meeting the requirements of this direction, so that the PSR can ensure they have the necessary processes in place.
- o. There may be exceptional circumstances where it would not be appropriate to require a directed PSP to comply, in relation to an account or accounts, with obligations imposed by the direction.

- 1.9** The PSR has decided to vary this direction in light of developments since the direction originally came into force and the PSR's experience in monitoring it.

2 Powers exercised and purpose

- 2.1** The PSR makes this direction in accordance with section 54 (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to persons of a specified description.
- 2.2** The purpose of this direction is to ensure CoP processes are introduced in a way that significantly reduces losses from APP scams and accidentally misdirected payments over FPS and CHAPS.

3 Direction

NOW the PSR gives the following specific direction to: Bank of Scotland plc, Barclays Bank UK plc, Barclays Bank plc, HSBC Bank plc, HSBC UK Bank plc, Lloyds Bank plc, National Westminster Bank plc, Nationwide Building Society, Royal Bank of Scotland plc, Santander UK plc and Ulster Bank Limited.¹

4 Requirement to introduce Confirmation of Payee

- 4.1** After 31 December 2019, a directed PSP must respond to every CoP request made to it that complies with the CoP rules and standards.
- 4.2** The response must comply with the CoP rules and standards.
- 4.3** Paragraph 4.5 applies where, after 31 March 2020, a customer holding an account with a directed PSP provides to the PSP, by an appropriate method, the necessary information about a new payee.
- 4.4** Paragraph 4.5 also applies where, after 31 March 2020, a customer provides to a directed PSP, by an appropriate method, an amendment to the unique identifiers of an established payee.
- 4.5** The directed PSP must send a CoP request in respect of the account to which the unique identifiers given by the customer as those of the payee relate.
- 4.6** The request sent by the directed PSP under paragraph 4.5 must comply with the CoP rules and standards. The directed PSP must deal with the response to that request (or the absence of a response) in accordance with those rules and standards.

Application and exceptions

- 4.7** The requirements of paragraph 4.5 only apply where:
 - a.** both the account from which the funds are to be sent ('the sending account') and the payee's account – as identified by the unique identifiers given by the customer – ('the receiving account') are UK accounts, and
 - b.** the unique identifiers used to identify both the sending and receiving accounts take the form of a sort code and account number

¹ Bank of Scotland plc and Lloyds Bank plc are part of the Lloyds Group; Barclays Bank UK plc and Barclays Bank plc are part of the Barclays Group; HSBC Bank plc and HSBC UK Bank plc are part of the HSBC Group; National Westminster Bank plc, Royal Bank of Scotland plc and Ulster Bank Limited are part of the Royal Bank of Scotland Group; Santander UK plc is part of the Santander Group.

4.8 The requirements of paragraph 4.5 do not apply where:

- a. the necessary information (or amended unique identifiers) is provided in anticipation of the customer making a transaction that is a bulk payment
- b. the receiving account is a Head Office Collection Account
- c. the receiving account is a suspense account
- d. the necessary information (or amended unique identifiers) is supplied in anticipation of funds being sent by way of an unattended payment routing
- e. a PSP is proposing to send funds on its own behalf
- f. the necessary information (or amended unique identifiers) is provided in anticipation of a transaction between the sending and receiving accounts being by way of a CHAPS 'MT202 general financial institution transfer' (within the meaning of the CHAPS technical requirements published by the Bank of England²) or a transfer of funds from or to an account of a financial market infrastructure (within the meaning of the 'Principles for financial market infrastructures' published by the Bank for International Settlement and the International Organization of Securities Commissions³) (central counterparties etc)
- g. the customer is an indirect PSP (within the meaning of the Code of Conduct for Indirect Access Providers published by Pay.UK⁴) providing the details of the payee in order to facilitate the transfer of funds by a customer of that PSP, or
- h. the necessary information (or amended unique identifiers) is received by the customer's PSP by post, email or fax, or is contained in instructions that are hand-delivered to a branch (or other office) of the PSP but which are not processed with the customer present

Exclusion of certain accounts

4.9 The following exclusions apply:

- a. Royal Bank of Scotland plc does not have to comply with the obligations under this direction in relation to accounts held at its Adam & Company brand.
- b. HSBC UK Bank plc does not have to comply with the obligations under this direction in relation to accounts held with it that form part of HSBC Group's HSBC Private Bank brand.

² See: bankofengland.co.uk/-/media/boe/files/payments/chaps/chaps-technical-requirements

³ See: bis.org/cpmi/publ/d101a.pdf

⁴ See: wearepay.uk/wp-content/uploads/2018/12/Code-of-Conduct-for-Indirect-Access-Providers-Pay.UK-Final-November2018.pdf

Alternative deadline for sending CoP requests for certain corporate customers

- 4.10** Bank of Scotland plc and Lloyds Bank plc in respect of a customer holding an account described in paragraph 4.11 may comply with the duty to send a CoP request for that customer from the migration date instead of from 31 March 2020.
- 4.11** An account held by a corporate customer in respect of which the information technology platform on which it is held, on the date this direction comes into force, is no longer subject to infrastructure investment and is one of those notified to the PSR in writing by Lloyds Group on 5 June 2019⁵ ('corporate legacy accounts').

Exemptions

- 4.12** A directed PSP may apply to the PSR for an exemption from the duty to comply with one or more obligations set out in this specific direction in respect of any of its UK accounts.
- 4.13** The PSR may approve an exemption if satisfied that:
- a. exceptional circumstances reasonably prevent the directed PSP from complying with the obligation or obligations, and/or
 - b. it is not reasonable or proportionate to require that PSP to comply with the obligation or obligations in accordance with the applicable deadline or deadlines in the direction
- 4.14** In considering an application, the PSR will have regard to all the circumstances, including the impact of approving the application on the achievement of the objective of this direction, namely a significant reduction in losses due to APP scams and accidentally misdirected payments.
- 4.15** The application by the directed PSP must be in writing and set out:
- a. the obligation or obligations to which the application relates
 - b. the circumstances that, in the PSP's opinion, justify the exemption
 - c. the number and type of accounts to which the application relates
 - d. the steps (if any) the PSP has taken to comply with its obligations under the direction
 - e. if the PSP is proposing that it comply with an amended form of its obligations under this direction, the nature of the amendments sought
 - f. whether, in the PSP's opinion, the application contains information that is confidential (and identify that information)

⁵ See accompanying published responses to our May 2019 consultation.

- 4.16** The PSR may ask the PSP to provide further information for the purposes of determining the application (and the PSP, when responding, must identify any information provided that, in its opinion, is confidential).
- 4.17** The PSR may reject an application or approve it in whole, or in part, and may make approval subject to compliance with conditions (including a new deadline for compliance). In the case of an exemption approved under paragraph 4.13.b (whether or not also approved under paragraph 4.13.a), a new deadline will be imposed as a condition.
- 4.18** The PSR may publish the application (and any further information provided about the application) and its decision (except confidential information).
- 4.19** The effect of the PSR approving it is that the PSP need not comply with an obligation or obligations imposed under this direction to the extent it (or they) is (or are) disapplied by the approval, but the PSP must comply with any conditions imposed.

Monitoring

- 4.20** A directed PSP must send the PSR a written report on how it proposes to introduce CoP to the deadlines required by this direction.
- 4.21** That report must contain at least the following information:
- a. the PSP's timetable for implementation of CoP in accordance with the requirements of this direction
 - b. the key milestones in each month that the PSP intends to meet to implement CoP
 - c. the key risks to the PSP meeting the deadlines set out in paragraphs 4.1 to 4.5, and the mitigations it has put in place
 - d. if the directed PSP expects to make an application under paragraph 4.12, such information as is available at the time the report is submitted about that application (including the expected timescale for any application)
- 4.22** A directed PSP must submit its first report on or before 29 September 2019. It must then submit a report every two months until the PSR informs it in writing that it does not need to submit any more.
- 4.23** Where this direction has been given to more than one PSP in the same banking group, those PSPs may submit a joint report.
- 4.24** The PSR may, in writing, in respect of any directed PSP, provide that:
- a. it must submit its first report on or before a different date
 - b. it must submit reports more or less frequently than every two months
 - c. it must submit a report on or before a particular date that we did not previously require
 - d. it does not need to submit a report where otherwise one would be required
- 4.25** The PSR may, in writing, require a directed PSP to provide it with information about how the PSP is complying, or proposes to comply, with this direction. The PSP must provide the information by the date given by the PSR.

Definitions and interpretation

- 4.26** A 'directed PSP' means each of the PSPs to which this direction is given.
- 4.27** A 'CoP request' means a request sent by a PSP to check the name of the intended payee (that is, the person to whom or which the payer anticipates sending funds) against the name of the person who holds the account to which the unique identifiers given by the payer when providing the necessary information (or amending the unique identifiers in that information) refer.
- 4.28** The 'CoP rules and standards' means the rules and standards for CoP provided for in the rule book developed by Pay.UK⁶, as they stand at the time the request is received (in respect of the requirements in paragraph 4.1) or at the time the PSP receives the necessary information (or amended unique identifiers) from the customer (in respect of the requirements in paragraph 4.5).
- 4.29** 'Appropriate method' means a method that is used by the directed PSP for a customer to provide instructions to it that may be used by the PSP for executing a payment from the customer's account to the payee (whether or not a payment is intended to immediately follow the instructions) where that payment may be made using FPS or CHAPS.
- 4.30** 'Necessary information' means the information required by the directed PSP in order to execute a payment from the customer's account to a payee and includes the name of the intended payee and the unique identifiers for the receiving account.
- 4.31** A reference to a customer providing information or an amendment to a directed PSP includes the provision of that information or amendment by someone on behalf of the customer where permitted under the appropriate method.
- 4.32** 'New payee' means a payee in respect of whom or which the directed PSP does not hold the necessary information.
- 4.33** 'Established payee' means a payee in respect of whom or which the customer had previously provided the necessary information and that information is held at the time of the amendment by the directed PSP.
- 4.34** 'Unique identifier' has the same meaning as in the Payment Services Regulations 2017 (see regulation 2).
- 4.35** An account is a 'UK account' if it is provided by a PSP in the course of that PSP's business within the United Kingdom.
- 4.36** A transaction consists of a bulk payment when the payer is proposing to use it to make payments to more than one account.
- 4.37** An account is a 'Head Office Collection Account' if a PSP uses it to collect funds in aggregation before transferring them to the appropriate individual accounts of its customers.

⁶ Pay.UK is a company limited by guarantee, incorporated in England. Company Number 10872449. For more on its work on Confirmation of Payee, see: wearepay.uk/confirmation-of-payee

- 4.38** An account is a 'suspense account' if it is an account used by a PSP to store funds temporarily for accounting purposes or where there is uncertainty as to where the funds should be sent.
- 4.39** An 'unattended payment routing' is where a PSP provides technical access to the FPS or CHAPS system for a customer to send payments through that system and consequently the PSP does not carry out the actions ordinarily required of a PSP that provides the sending account when executing an FPS or CHAPS payment.
- 4.40** 'Migration date' means the date the customer's account is migrated from the information technology platform that is no longer subject to infrastructure investment to another platform.

5 Application of Specific Direction 10

This direction applies to the directed PSPs.

6 Commencement and duration

- 6.1** This direction came into force on 2 August 2019 and comes into force as varied on 18 February 2020.
- 6.2** This direction continues in force until such time as it is varied or revoked by the PSR.

7 Citation

This direction may be cited as Specific Direction 10 (Confirmation of Payee) (Varied February 2020).

8 Interpretation

- 8.1** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 8.2** The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament.

- 8.3** References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

Originally made on 1 August 2019

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Made with variation on 13 February 2020

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