

The Association of Corporate Treasurers

Comments in response to
Setting the strategy for UK payments
HM Treasury,
July 2012

October 2012

The Association of Corporate Treasurers (ACT)

The ACT is a professional body for those working in corporate treasury, risk and corporate finance. Further information is provided at the back of these comments and on our website www.treasurers.org.

Contact details are also at the back of these comments.

We canvas the opinion of our members through seminars and conferences, our monthly e-newsletter to members and others, *The Treasurer magazine*, topic-specific working groups and our Policy and Technical Committee.

General

The ACT welcomes the opportunity to comment on this matter.

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The ACT is of the opinion that it is not necessary to move from self-regulation of the payments industry to government regulation, rather, strengthen the current self-regulation structure by ensuring users have a stronger voice.

We do not agree with the government's preferred option (Option 2) to establish a public sector body, the Payments Strategy Board (PSB) to oversee the UK payments strategy. Regulation represents a barrier to entry, restricts competition and innovation and increases costs. We believe regulation should only be used as a last resort where there is evidence of an actual or potential market failure and where the public good from regulation far outweighs the costs. Additionally there is a high risk that a separate regulatory body will become remote from the payments industry and not close enough to advise on UK payments strategy.

Our preferred option is (Option 1) enhanced self-regulation which proposes to keep the Payments Council with improvements to enhance the voice of the user. Setting the strategy for future payments networks should take into account the interests of all, including corporates which we represent. Changes to ensure a strong users' voice include changing the composition of the Payments Council Board and enhancing the role and function of the current user forums.

The third option in the consultation document is full statutory regulation similar to other regulated sectors such as gas, electricity and water. This option would be a major increase in the overall regulatory burden with considerable costs and take time to implement. This is not the government's preferred option and we agree this is a step too far.

In addition to answering the consultation questions we have also provided a specific comment on plastic cards. Plastic cards represent a significant portion of payment transactions and that percentage is growing. Historically payment merchants have been owned and operated by a number of the big banks but in recent years there has been a trend to sell off a portion of the payment merchant operations to Private Equity interest and overseas providers, which have no direct accountability to the new regime. With the continued trend from cheque payment to plastic payments it is important that this method of payment is specifically covered and included in the updated UK Payments Strategy and that the Payments Council takes ownership of strategy for the plastic card payments industry.

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?*

The Payments Strategy Board is the government's preferred option, however we do not agree that this should be the lead option for reform. Our key concerns are that:

- Regulation should only be used as a last resort where there is evidence of an actual or potential market failure or in quasi-monopoly areas where competition is insufficient, industry codes etc. have failed and where the public good from regulation manifestly exceeds the costs it engenders. The government has not provided any evidence of these in their consultation to warrant independent regulation.
- The proposal is that the PSB would only publish recommendations to the payments industry rather than requiring action so is not a strong voice
- The PSB, as a separate body, could become distant from the workings of the payments industry and not close enough to advise on strategy
- There is some question over the PSB having a formal information gathering power but without this power it may not be able to understand and verify key trends in the payments industry

- The PSB is to be funded by an FCA levy on the payments industry. This would be an additional cost which may be passed on to consumers/corporates

Question 2

The following 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.

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

The ACT is of the opinion that Option 1 to continue with the Payments Council is the preferred option but only where there is a stronger user's voice to act as a real counterbalance to the industry.

The current remit and objectives of the Payments Council: strategic vision; openness and accountability; and integrity are broadly appropriate. However the voting rights of the Payments Council's Board is dominated by the banks with only four out of fifteen directors being independent and having to work together in order to veto a Board decision. From a strategic perspective this gives the banks considerable power to dictate the future direction of the payments industry. The requirement that two independent directors would be able to veto the Board's decisions does provide more of a voice for corporates and consumers and we agree with this proposal.

User forums are currently the main channel for end-users such as corporates to work together with the Payments Council. We do believe that the current format of the user forums is not effective and that the proposed User Councils should have a stronger voice and be able to set their own agendas and strategic views.

Additionally we agree with the following option 1 proposals:

- Clearer functional separation of the strategic function from the trade body or lobbying functions
- Significantly enhance the role and function of the current user forums (the ACT are currently a member of the large users forum)

- The Bank of England would continue to sit on the Payments Council board as a non-voting observer and the new Financial Conduct Authority (FCA) would be invited to also have non-voting observer status.
- Provide transparency by continuing to publish the annual progress report

Question 3

The following relate to the creation of a new public body, (the Payments Strategy Board (PSB)) under Option 2.

- 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 poser, and what should an appropriate enforcement mechanism be?*
- Do you agree that the Payments Strategy Board should be funded by the FCA levy on the payments industry?*
- Should the FCA have any further controls over the Payments Strategy Board?*

As detailed above we do not agree with the creation of a new public body to regulate the payments industry and hence have not answered the detailed points under Question 3.

Additional comments on the UK payments strategy and plastic card payments

In 2010 plastic card payments represented 23.3%¹ of transactions by volume and in July 2012 had an annual growth rate for spending of 5.2%². Plastic cards are not addressed by the Payments Council but by the UK Cards Association. The UK Cards Association website states that “The UK Cards Association Board is responsible for setting the strategic priorities for the industry.”³ For such a major part of the payments landscape, we believe plastic cards should be specifically included within the remit of the Payments Council and hence the UK payments strategy.

Whilst the 2011 National Payments Plan states that the Payments Council will “Examine our relationships with The UK Cards Association and the international card schemes as part of our forthcoming governance and performance review, and consider how the Payments Council can be most effective in driving change in card payments.”⁴ we do not believe this action point goes far enough. We urge the Payments Council to take ownership of strategy for the plastic card payments industry.

¹ Source: Calculated from data in table 3.2 of HMT’s Setting the strategy for UK payments July 2012 based on Payments Council. UK Payment Statistics 2011. Tables 27.1 and 27.2

² The UK Cards Association Card Expenditure Statistics [CES] – July 2012. At a glance key figures for July 2012

³ http://www.theukcardsassociation.org.uk/board_members/the_board.asp

⁴ The 2011 National Payments Plan page 40

Historically payment merchants have been owned and operated by a number of the big banks but in recent years there has been a trend to sell off a portion of the Payment Merchant operations to joint venture structures. WorldPay Business Services is majority owned by Ship Luxco Holdings & CY SCA, registered in Luxembourg. WorldPay trade under the name Streamline in the UK and claim to handle 46%⁵ of all UK point of sale transactions. Global payments, which operates under the name of HSBC is wholly owned by Global Payments Inc. a quoted US company. Lloyds provides merchant acquisition through its subsidiary Cardnet which is approximately 50% owned by the First Data Corporation, a company owned by KKR a US Private Equity firm. Elavon Merchant Services processes transactions for Santander and Bank of Ireland and is owned by US Bankcorp, the fifth largest commercial bank in the US. So it is reasonable to conclude that less than 50% of the UK Merchant acquisition market is provided by existing representatives of the Payments Council. We believe it is important that plastic cards should be included directly in the updated UK Payments Strategy and regulated by the Payments Council.

⁵ Worldpay Group half year trading update to June 2012 found at http://www.worldpay.com/about_us/content/half-year-trading-june-2012.pdf

The Association of Corporate Treasurers

The Association of Corporate Treasurers (ACT) is the leading professional body for international treasury providing the widest scope of benchmark qualifications for those working in treasury, risk and corporate finance. Membership is by examination. We define standards, promote best practice and support continuing professional development. We are the professional voice of corporate treasury, representing our members.

Our 4,300 members work widely in companies of all sizes through industry, commerce and professional service firms.

For further information visit www.treasurers.org

Guidelines about our approach to policy and technical matters are available at <http://www.treasurers.org/technical/manifesto>.

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