The Association of Corporate Treasurers

Comments in response to:

PSR CFI 15/1 Call for Input: Card Payment Systems

Payment Systems Regulator

June 2015

July 2015

The Association of Corporate Treasurers (ACT)

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

Contact details and a link to our approach regarding policy submissions can also be found 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.

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that the PSR can publish. However, in supplying this response, I understand that the PSR may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations, in particular if they are asked to disclose a confidential response under the Freedom of Information Act 2000. I understand that any decision the PSR make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal. If I have sent my response by email, I understand that the PSR can disregard any standard e-mail text about not disclosing email contents and attachments.

I confirm that this response only contains accurate, complete and non-misleading information.’

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Associate Policy & Technical Director

All references below are those in PSR CFI 15/1

Fees and cost sharing

3.4 The purpose of this work package is to gather evidence on the full range of fees, charges, fines and other cost sharing mechanisms in card systems. We also seek views on likely responses to interchange fee caps and the effect on innovation. This will enable us to understand how the IFR might affect other fees in the system, given the nature of competition within and between card systems.

3.5 While there is substantial economic literature on interchange fees, and numerous competition and regulatory publications on these fees, relatively little attention has been paid to other cost sharing mechanisms in card systems, such as scheme fees and rules governing chargebacks (i.e. the reversal of a card transaction) and fraud. We want to identify and understand the extent to which each of those arrangements might be amended in a way that would affect the balance of system costs across the issuing and acquiring sides of the market following, the introduction of the IFR.

3.6 To help our thinking on these topics we have set out a number of questions on which we would welcome stakeholders' input

Questions on fees and cost sharing

3.7 We seek evidence and explanations in relation to the following questions:

Q1: Besides interchange fees, please identify and describe all other monetary transactions within card systems. This should include fees, fines, charges and similar, including rebates, incentives and bonuses. You should respond separately for transactions involving:

- Merchants
- Acquirers
- Payment facilitators
- Issuers
- Card partners
- Cardholders
- Any other relevant parties (please identify them when responding)

ACT Response: Corporates will have the role of card acceptors and will clear transactions though their designated card acquirer and not the card issuer. The cardholder is their customer. Transactions are accepting card payment and clearing through an acquirer. The fee transaction is therefore a cost of clearing the card transaction through the acquirer.

Q2: To what extent does the increment of the Merchant Service Charge over the interchange fee differ between merchants? What factors explain this?

ACT Response: MSCs vary between card acquirers. The fee will be dependent on the negotiating power of the merchant and typically take into account the average value of transactions and the number of transactions, whether transactions are cleared individually through pdq terminals or are cleared through on-line processes enabling further validation. The fee will also depend on the ability of the merchant to show compliance with PCI DSS.

3.8 We seek views on the following questions. Please provide supporting evidence where possible.

Q3: How do you expect three- and four- party card system operators to respond to the capping of interchange fees on debit and credit cards?

ACT Response: The cap mechanism will generally be an increase in debt card interchange fees which have previously been a flat charge regardless of value. We expect operators to pass through the maximum charge permitted.

Q4: How do you expect issuers to respond to the capping of interchange fees on debit and credit cards?

ACT Response: The cap mechanism will generally be an increase in debt card interchange fees which have previously been a flat charge regardless of value. We expect operators to pass through the maximum charge permitted.

Q5: How do you expect acquirers to respond to the capping of interchange fees on debit and credit cards?

ACT Response: The cap mechanism will generally be an increase in debt card interchange fees which have previously been a flat charge regardless of value. We expect acquirers to pass through the maximum charge permitted which is enabled under their acquirer contracts with merchants.

Q6: How do you expect innovation to be affected by the capping of interchange fees on ebit and credit cards, if at all?

ACT Response: We do not see an immediate link between card innovation due to the change in interchange fees. We would expect merchants to be less ready to accept debit cards for higher value transactions because the fees are ad valorem and this may drive merchants to seek payment by Faster Payment.

There is a risk that the changes may be counter-productive as merchants seek increasingly to pass through third party costs, in this case card fees, to customers to make clear their own product cost. This may drive consumers at retail outlets to revert to cash or cheques.

Business rules in the IFR

3.9 In this work package, we will work with card systems operators and other stakeholders to understand how stakeholders are interpreting the various business rules in the IFR, including functional separation. We also wish to understand how they will affect the operation of card systems in the UK, what the expected timelines for implementation are, and what the operational impacts of the changes will be.

3.10 We are participating in the European Banking Authority's working group which will develop draft regulatory technical standards establishing the requirements to be complied with by payment card systems and processing entities in respect of functional separation.

3.11 We will also consider the best way to monitor compliance with each of the business rules included in the IFR. This will involve looking at the risks and impacts of potential non-compliance against the regulatory burden and potential for unintended consequences that different monitoring approaches might create.

3.12 To help our thinking on these topics we have proposed a number of questions on which we would welcome stakeholders' input

Questions on business rules

3.13 We seek views on the following questions:

Q7: Are there any business rules included in the IFR for which you would like greater clarity on how they will be interpreted? Please explain your response.

ACT Response: we are aware that there are different state rules across the EU on the ability to pass back card charges to customers. For example: this is forbidden in Italy. It has been the practice of UK businesses to increasingly separate the card payment charge in the final bill to customers. Retailers will want clarity, and significant forewarning, if the PSR is to propose or concede any change to the current UK practices which at least may require changes to payment software, and at worst may require retailers to consider alternate payment processes.

Q8: For each of the business rules included in the IFR, what are the key operational challenges that you will face in becoming and remaining compliant on an ongoing basis? Please provide evidence to support your response.

ACT Response: we are aware that there are different state rules across the EU on the ability to pass back card charges to customers. For example: this is forbidden in Italy. It has been the practice of UK businesses to increasingly separate the card payment charge in the final bill to customers. Retailers will want clarity, and significant forewarning, if the PSR is to propose or concede any change to the current UK practices which at least may require changes to payment software, and at worst may require retailers to consider alternate payment processes.

Q9: For each of the business rules included in the IFR, how long do you think it will take you to become compliant? Please provide evidence to support your response.

ACT Response: we are aware that there are different state rules across the EU on the ability to pass back card charges to customers. For example: this is forbidden in Italy. It has been the practice of UK businesses to increasingly separate the card payment charge in the final bill to customers. Retailers will want clarity, and significant forewarning, if the PSR is to propose or concede any change to the current UK practices which at least may require changes to payment software, and at worst may require retailers to consider alternate payment processes.

Q10: For each of the business rules included in the IFR, what do you expect the impacts to be on your business (in terms of costs, system changes, operational changes, etc.) and on other parties, including issuers, acquirers, merchants, consumers/cardholders, payment facilitators and card partners?

ACT Response: we are aware that there are different state rules across the EU on the ability to pass back card charges to customers. For example: this is forbidden in Italy. It has been the practice of UK businesses to increasingly separate the card payment charge in the final bill to customers. Retailers will want clarity, and significant forewarning, if the PSR is to propose or concede any change to the current UK practices which at least may require changes to payment software, and at worst may require retailers to consider alternate payment processes.

Q11: In your opinion, what would be an appropriate approach to monitoring compliance with each of the IFR business rules and why?

ACT Response: No comment

Governance of card systems

3.14 The purpose of this work package is to understand the extent to which there are areas in the governance arrangements of card systems that need to be addressed, and to consider whether (and if so how) the PSR needs to act to tackle any issues that are identified.

3.15 For this work programme we will interpret the term 'governance' relatively broadly. It does not simply refer to the composition and functioning of the board/governing body and its decision-making processes, but also includes, for example, the content of rulebooks and the degree to which there is transparency on the exercise of those rules.

3.16 Governance arrangements can significantly affect the functioning of card systems, including with respect to cost sharing between the two sides of the market. Consequently, they may influence how operators respond to the IFR.

3.17 We also want to understand the extent to which participants comprehend the obligations upon them. Differences in the information available to system operators, acquirers, issuers, merchants and cardholders may be of concern to the PSR if they prevent the operation of a competitive market that works in the interests of cardholders, merchants and consumers.

3.18 To help our thinking on these topics we have set out a number of questions on which we would welcome stakeholders' input. Depending on the information provided by stakeholders, and in line with our Administrative Priority Framework, the PSR may choose to take no action at this stage, or may decide to propose policy or other measures under our regulatory and/or competition powers to tackle any identified problems.

Questions on governance

3.19 We seek views on the following questions:

Q12: Do you think that there are any problems with the governance arrangements of card systems (including but not limited to the scheme ownership arrangements, how the interests of service-users, including merchants, are represented in card systems' decision-making, and whether there is sufficient transparency over operators' decision-making)? If yes, please explain the nature and basis of your concerns and provide any relevant examples of instances in which those arrangements have worked to your disadvantage or the disadvantage of some other parties.

ACT Response: We do not believe that there is a high degree of visibility of card acquiring arrangements within most corporates. Efforts to date have been to recover the cost of credit card transactions from customers while offering the often free alternative of using debit cards. The changes to debit card fees under implementation will remove this free alternative for retailers with generally higher value transactions.

We do not believe there has been awareness of the changes largely driven by retailers with a broad range of transaction values and whose "point of sale" process has not enabled card type differentiation to date. These changes have been announced in previous months as card acquirers begin to arrange to pass through the higher MIF on debit cards.

This will increase corporate awareness of card fees, and stimulate thinking about fee recovery, and about alternate payment methods. Essentially governance over payment processes will increase but potentially to the detriment of card payments.

Q13: To what extent do you consider that the card system operators' rulebooks governing card systems are transparent and to what extent do you consider issuers, acquirers and service-users, including merchants, can understand their contents?

ACT Response: We believe that corporates rely on card acquirers to make clear their system rules but this generally has not been an area of visibility. In general cards have proven a better means of payment over alternatives. The change to the debit card MIF, and the increased availability of payment alternatives such as FP through smart phones are likely to increase scrutiny of all payment processes.

Q14: Would any changes to the way in which card systems rules and requirements are communicated to service-users, including merchants, help to address any concerns identified in your response to Q13? Please explain your response.

ACT Response: No comment

Access to card systems

3.20 Our fourth work package will seek to understand why some PSPs choose to access card systems indirectly. Existing legislation (the EU Payment Services Directive) and the transparency and reporting rule included in our General Direction 3 should already ensure that direct access arrangements to card systems are fair and proportionate. We want to understand if there are any impediments to competition that are affecting some PSPs' decisions to access card systems directly, indirectly, or not at all.

3.21 It is important to identify why there is a demand for indirect access to card systems because there may be links with other aspects of cards systems (e.g. demand for indirect access may be linked to issues regarding transparency, governance, availability of sponsorship arrangements or costs). We note that some PSPs access card systems through a sponsor that is a member of the same corporate group and it may be that such arrangements simply reflect the administrative efficiencies that can be gained. However, other sponsored access arrangements are commercial in nature and it is these arrangements that we wish to understand in greater detail.

3.22 To help our thinking on these topics we have set out a number of questions on which we would welcome stakeholders' input. Depending on the information provided by stakeholders, and in line with our Administrative Priority Framework, the PSR may choose to take no action at this stage, or may decide to propose policy or other measures under our regulatory and/or competition powers to tackle any identified problems

Questions on indirect access

3.23 We seek views on the following questions:

Q15: In your opinion, are there sufficient options for gaining access to card systems, either directly or indirectly, and is there sufficient information available on those options to enable PSPs to make informed decisions? Please explain your response.

ACT Response: Our membership comprises Merchants and not PSPs.

Q16: In your opinion, are there barriers to securing indirect access to card systems?

If yes, what are these barriers and what is the impact? Please provide evidence to the extent possible.

ACT Response: No comment

Q17: If you are a PSP which accesses a card system indirectly, please explain why you have chosen this means of access, as opposed to direct access.

ACT Response: No comment

The Association of Corporate Treasurers (ACT) is the leading professional body for international treasury, operating in the public interest under Royal Charter. We provide 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 4,400 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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