Regulator Assessment: Qualifying Regulatory Provisions

Title of proposal: PS21/19: Changes to the SCA-RTS and to the guidance in 'Payment Services and Electronic Money – Our Approach' and the Perimeter Guidance Manual

Lead regulator: Financial Conduct Authority

Date of assessment: 19/02/2021

Commencement date: Proposals relating to contactless limits come into force March 3 (expedited as a result of the coronavirus pandemic). Remaining proposals come into force on 30 November 2021.

Origin: Domestic

Does this include implementation of a Cutting Red Tape review? No

Which areas of the UK will be affected? Changes are not specific to areas in the UK.

Brief outline of proposed new or amended regulatory activity

We have identified barriers to the future success and adoption of open banking as it grows in the UK. To address these, we are proposing amendments to the technical standards on strong customer authentication and common and secure methods of communication (the SCA-RTS). This includes:

- Creating Adding a new exemption (Article 10A) from strong customer authentication (SCA) so that customers do not need to reauthenticate every 90 days when accessing account information through an AISP.
- Mandating the use of dedicated interfaces (such as application programming interfaces (APIs)) by account servicing payment service providers (ASPSPs) for certain retail and SME customers' payment accounts to facilitate third-party provider (TPP) access.
- Changing requirements for publishing interface technical specifications, availability of testing facilities, and fallback mechanisms by account providers
- Treating ASPSPs with deemed authorisation under TPR (whether under the Exit SI or EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018) as exempt from the requirement to set up a fallback interface, where the ASPSP has an exemption from its home state competent authority.
- Increasing the single and cumulative transaction thresholds for contactless payments from £45 up to £100 (or potentially a maximum of £120) and from £130 to £200 respectively.

Our Approach Document (AD) sets out our approach to the Payment Services Regulations 2017 (PSRs) and Electronic Money Regulations 2011 (EMRs), and what we expect from firms who provide payment and e-money services. Since we last updated our Approach, in June 2019, we have published several statements clarifying our expectation of firms' prudential risk management and safeguarding practices. In response to coronavirus pandemic, after a three-week consultation, we published temporary guidance to strengthen firms' resilience through additional prudential risk management and safeguarding requirements.

To give the industry clarity and certainty, we are proposing to make our recent temporary guidance permanent and consolidate our expectations of firms. This includes:

- Changes to our guidance in the AD on strong customer authentication.
- Amend our safeguarding and prudential risk management guidance.
- Proposing to make permanent the temporary guidance issued in July in response to coronavirus pandemic.
- Proposing updates to our guidance addressing changes required now the UK has left the European Union (EU) and after the end of the transition period.
- Updating our guidance in other areas such as to reflect the changes set out is PS19/3 that applied the Principles for Businesses and parts of the Banking Conduct of Business Sourcebook (BCOBS) to payment services and the issuance of e-money; to provide additional guidance to firms relying on the limited network exclusion (LNE) and the electronic communications exclusions (ECE); updates to reflect changes to e-money firms' reporting requirements; on information sharing between ASPSPs and TPPs; and on eIDAS certificates to reflect the changes to Article 34 of the SCA-RTS.

Outlined below are responses from firms to our consultations.

- Article 10A exemption
  Most respondents were supportive of our proposed changes to the exemption to 90 day reauthentication, and the introduction of the Article 10A exemption. Out of our 90 responses, 2 respondents thought that this exemption did not go far enough, while 3 others disagreed with removing the need for 90 day reauthentication. Based on the general support, we continue to believe that our proposal strikes an appropriate balance between consumer protection and convenience.

- Mandating the use of dedicated interfaces by ASPSPs for certain customer payment accounts to authorise access to TPPs
  Most respondents supported our proposal to mandate the use of dedicated interfaces by certain ASPSPs to enable TPP access. A few respondents disagreed and thought this change could make the SCA-RTS dependent on specific technology that could become outdated. We also received a few requests for us to give further clarification of the definition of a dedicated interface and the scope of accounts caught by the proposal, which we are addressing in our policy statement.

- Increasing the single and cumulative contactless payment threshold
  Most of our 34 respondents were supportive of the increase in this threshold, with some respondents even suggesting increasing the cumulative threshold further to facilitate the increase in the single contactless payment threshold. Two respondents commented on the negative impact on the cash industry. We are working closely with the cash industry to ensure consumers and businesses are able to access the cash they need. One respondent mentioned the increased risk of fraudulent transactions. We have also continued to be clear in all our statements and documents that banks need to ensure the adequacy and safety of their systems. Moreover, the ability for customers to view their transactions and cancel their contactless card if they identify unauthorised transactions, in our view, also reduces the likelihood of risk of harm materialising in this regard. In addition, we have received fraud data from a card scheme. These fraud data are confidential, but they confirm that the early indications since the increase has taken place in October 2021 that there has been no visible impact on fraud. In addition, prior to publishing the consultation paper, fraud data shared by industry showed no material increase in the fraud rate through contactless cards since the increase of the contactless threshold from £30 to £45. In addition, high limits exist in a number of countries internationally and fraud data in these countries have continued to confirm very low fraud rates.

Which type of business will be affected? How many are estimated to be affected?

Payment service providers (PSPs) and e-money issuers, as well as trade bodies representing them, should consider our proposals. Our proposals affect credit institutions providing payment services and/or issuing e-money, as well as payment institutions (PIs), e-money institutions (EMIs) and registered account information services providers (RAISPs). It also applies to firms' subject to the temporary permission regime (TPR) and the financial services contracts regime (FSCR) set out in Schedule 3 of the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (Exit SI). It also applies to Gibraltar firms providing payment services in the UK. The business numbers and costs refer to Temporary Permission Regime (TPR) firms, which are EEA-based firms with the relevant UK approvals / authorisation.

There are different firms concerned depending on the changes we are proposing. For those on open banking the population is smaller. For the purpose of our open banking focused proposals, in our SCA-RTS instrument, we estimated the firms impacted by using the FCA register, which lists firms and individuals, and activities that firms have permission for. We approximated the number of ASPSPs using the number of firms with permissions under the Payment Account Regulations (PARs). We note that the actual number may differ from this estimate as not all credit card issuers or other ASPSPs offering payment accounts as defined under the PSRs under the new rules would be captured by the PARs. We believe that the discrepancy is likely to be small and that this was the best proxy to estimate as accurately as possible the number of firms that may be impacted. We have received no comments from stakeholders in the context of our consultation.

The number of firms affected by our proposed changes to the SCA-RTS is summarised in the below:

Area of update	Firms affected
Article 10A exemption	ASPSPs – number estimated at 272* 105 RAISPs 369 TPR firms with PSD, E-money and deposit taking permissions
Changes to requirements for modified customer interfaces	252 small and medium ASPSPs**
Amendments to Technical Specifications and Testing Facilities requirements	ASPSPs – number estimated at 272 369 TPR firms with PSD, E-money and deposit taking permissions
Changes to the cumulative threshold for contactless payments	ASPSPs – number estimated at 272 369 TPR firms with PSD, E-money and deposit taking permissions

* ASPSPs include credit institutions, PIs and EMIs that offer payment accounts and/or issue credit cards. We approximate the number of these firms by the number of firms with permissions under the Payment Account Regulations (PARs). We note that the actual number may differ from this estimate. This is because not all credit card issuers or other ASPSPs offering payment accounts as defined under the PSRs that are captured by the new rules would be captured under PARs. We believe that the discrepancy is likely to be small and that our estimates are accurate.

**We believe that the 20 large ASPSPs in our population have already developed an API.

We estimate that there is a total of 746 firms in scope (272 ASPSPs,105 RAISPs and 369 TPR firms with relevant permissions).

In a typical year, since 2008, the sector has been growing by 30 firms and we expect this growth to continue. Our current costs and benefits reflect the current number of firms, but we expect these will increase in proportion over time. This is aligned with the methodology used across the FCA.

The number of firms affected by our proposed changes to the AD is summarised in the below:

Area of update	Type of firms affected	Number of firms affected
Stress testing	All authorised PIs and EMIs, all SEMIs	619
Capital requirements and group risk	All authorised PIs and EMIs, all SEMIs	619
Safeguarding customer funds	All authorised PIs and EMIs, all SEMIs and relevant TPR firms*	810

*Relevant TPR firms are E-money issuers and PSD firms with the following permissions:

- Services enabling cash placement on a payment account
- Services enabling cash withdrawals from a payment account
- Execution of payment transactions (not covered by a credit line)
- Execution of payment transactions (covered by a credit line)
- Issuing payment instruments or acquiring payment transactions
- Money remittance

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2019	2021	10	--286.6	33.3	166.5

Please set out the impact to business clearly with a breakdown of costs and benefits

1) The cost and benefits for our proposed changes to the SCA-RTS and the AD are summarised in the tables below

Assumptions used for cost estimates and the basis for these;

• The staff salary assumptions we make are based on the Willis Tower Watson 2016 Financial Services Report (adjusted for annual wage inflation and including 30% overheads)

• We model project costs based on the Standardised Cost Model (SCM) to stay consistent with previous CBA analyses we have conducted

• We assume 300 words per page and a reading speed of 100 words per minute

• This is consistent with our general approach in measuring these costs.

Calculations behind the total cost figures

We estimate costs using the Standardised Cost Model (SCM).

The standardised costs model helps estimate costs predominantly on the basis of staff time. The key pieces of information that we require to estimate the costs of an intervention are what incremental tasks a new rule requires of firms, and how much staff (or external contractor) time is required to complete those tasks. This time is likely to vary according to a firm's size and their activity in that market. Most cost estimates are then based on a calculation like the one below (separately for each size of firm). This approach is common to our previous CBAs:

Additional minutes of staff time x average cost of time per minute x number of firms.

To put a cost on time, we have sourced salary information for a range of occupations in financial services. Figures for large and medium firms are based on the 2016 Willis Towers Watson UK Financial Services Report. Small firm salaries were sourced from a systematic review of adverts on the website of Reed, cross-referenced with other publicly available sources. We add an allowance for overheads of 30% to all time costs to account for non-wage labour costs. Salary estimates are uprated using ONS earnings inflation figures.

Non monetised impacts

Where we have felt costs or benefits cannot be reasonably estimated or it is not reasonably practicable to produce an estimate, we have not attempted to do so. We have also not quantified costs that are of minimal significance.

We do not believe it is reasonably practicable to quantify the benefits of our SCA-RTS proposals. To provide such estimates, we would need data that allows us to predict the increase in open banking users' due to our intervention, as well as the reduction in customer churn rates. We are not aware of such data, especially given the relative infancy of open banking and any attempt at estimating could lead to misleading figures as a result.

Non-monetised costs in our guidance for our AD

Stress testing - in our view, it wasn't reasonably practicable to predict the increase in liquidity and capital for each firm resulting from our guidance, so we did not quantify this cost

Calculating capital - quantifying the total cost to industry in this case would not have been practicable, as we do not know the exact proportion of firms in the population of firms which will have to raise extra capital.

Indirect firm costs - there may be an indirect cost of reduced leveraging ability due to our guidance on capital requirements, but we cannot reasonably quantify this cost.

We do not believe it is practicable to monetise the benefits of enhanced financial stability. It is also not reasonably practicable to estimate the benefits of a reduced risk of financial loss to customers, as we would need to quantify the effect on firm failures resulting from our policies. This would require us to estimate the causal impact of higher capital, stress testing and safeguarding audits on the probability of firm failure. We are not aware of any datasets or published studies that can produce this estimate.

Stakeholder	One-off/ ongoing	Costs	Benefits	Breakdown of costs
Firms	One-off	Familiarisation and legal - £203k		• Approximately 10 pages of policy documentation - it would take around 0.5 hours to read the document. We assume 20, 5, and 2 staff members reading the document in large, medium and small firms respectively, and using the above staff salary assumptions, we expect that for the 746 firms considered, the familiarisation costs will be £59000 • Assuming 10 pages of legal text, we anticipate 4, 2 and 1 legal staff will read the instrument in large, medium and small firms respectively, and each staff member will take 12 hours. We calculate legal costs to be £144000 Total legal and one off legal and compliance costs - £203000
		Costs of setting up a dedicated interface - £ 9.2m-£ 47.9m		*We expect the 252 firms in scope, of which 190 are small and 62 medium, will incur small to minor IT and change project costs to support the development of dedicated interfaces. We model these costs using our standardised internal estimates. We expect implementation of the changes to require 3 to 6 days of work (21-42 staff hours) in small firms and 14 to 280 days of work (98-1960 staff hours) at medium firms, in addition to minor governance changes subject to board and executive oversight. For small firms, one-off costs are between £1,000 to £2,000 and for medium firms they are £7,000 to £110,000.* The estimated range for one-off costs is wide because the costs associated with developing a dedicated interface vary with the complexity of a firm's backend IT systems, making it is difficult to predict the exact cost to the sector. *We do not think firms will incur significant additional costs due to reporting requirements given the limited* *reporting requirements for dedicated interfaces.* We predict a lower bound estimate of one-off total costs to the sector of £9.2m and an upper bound of £47.9m. While we believe the cost will likely be lower, we have decided to take a conservative approach by opting to choose the upper bound of

				£47.9m as the best estimate. The reason for the significant variation in terms of possible costs is due to the dependency on the quality of firms' existing IT systems as well as their size. For instance, new account providers tend to have systems that are easy to integrate with APIs. Our estimates are based on the costs firms that have already developed dedicated interfaces have incurred. Again, for these firms the estimated costs vary largely, depending on size and the quality of existing IT systems.
		IT changes – £1.6m		• We expect that in changing 90 day reauthentication, the 746 firms in scope to make changes equivalent to a small IT project taking 46, 8 and 5 person days for large, medium and small firms The total one-off IT cost associated with the Article 10 amendment are estimated to be £1.6m
		Change project costs – £1.7m		• We model project costs to make the changes in relation to the article 10 exemption based on our Standardised Cost Model (SCM). We expect that firms will make governance changes, taking 45, 14 and 3 person days at large, medium and small firms respectively The total one-off change project costs are estimated to be £1.7m
	Ongoing	Costs of running a dedicated interface – £11m	TPPs able to attract more customers as friction reduces due to APIs	We have used data collected by the Open Banking Implementation Entity (OBIE), who were closest to the firms at the time of implementation and hence have the best estimates of the costs. This data suggests that small firms could face annual costs of running a dedicated interface of around £25,000. For medium firms, ongoing costs are £100,000. We apply this to the 252 firms in scope (190 small and 62 medium) to reach the £11m ongoing annual cost. However, this estimation is just an average of the expected costs to firms, and in practice, the costs can vary depending on the pre-existing IT systems and size of the firms.
			TPPs to retain more customers as 90-day	

			reauthentication rule changes	
			Lower costs to ASPSPs when releasing new products as they don’t need to publish testing facility before launch	
Customers	Ongoing		Less time spent authenticating Better access to TPP services and better variety and quality of TPP services Less time spent authenticating when making contactless payments	
Total	One-off	£ 12.7m – 51.4m		
	Ongoing	£11m		

The cost and benefits for our proposed changes to the AD are summarised in the below:

Stakeholder	One-off/ongoing	Costs	Benefits	Breakdown of costs
Firms	One-off	Familiarisation and legal - £190.7k		• Approximately 40 pages of policy documentation excluding the legal instrument, it would take about 2 hours to read the document. We assume 20, 5 and 1 staff member to read the document in large, medium and small firms respectively. Based on the hourly compliance staff salary assumption from the Willis Tower Watson 2016 Financial Services Report (adjusted for annual wage inflation), we expect total familiarisation costs to be £156000 • We have assumed 5 pages of legal text and anticipate 4, 2 and 1 legal staff to read the legal instrument in large, medium and small firms, taking 12 hours each. Hence, we calculate legal costs of £34433 The total legal and compliance cost is estimated £190.7k
		Setting up governance processes for stress testing - £1.4m		• The SCM captures the estimated cost of such changes through change projects, which principally estimate costs on the basis of time incurred by a project team and project management, including senior staff time. We use existing internal data from research the FCA has undertaken to understand this type of project and estimate these costs. • We expect that the larger firms will on average spend 90 days to establish the governance process to perform stress testing. The required person days are 28 and 6 for medium and small firms, respectively. The time is spread across project teams and executive and board oversight.

				• We expect the ongoing annual cost of stress testing to halve after the first year once the governance processes are established. We estimate total costs to firms to be £1.4m in the first year and £697.6k every following year
	Ongoing	Annual audit of safeguarded customer funds - £16.6m		• We recognise that the costs of carrying out an audit may vary by auditor, as well as the firm's size and complexity. Due to this, our estimated cost for small, medium, and large firms may overestimate or underestimate the actual costs to some of the firms in these groups. However, they are an average that is used to provide reasonable estimates of the total cost to industry. Based on these figures we estimate the total costs to firms for safeguarding audits to increase from our original estimate of £9.7m to £16.6m on an annual basis. As we noted in our original CBA, there is considerable scope for consumer harm from poor prudential risk management and safeguarding. This is shown by the £40m shortfall in funds owed to customers following the failure of 5 PSPs between October 2018 and March 2020. We therefore expect the benefits to continue to outweigh the costs.
		Annual stress testing - £697.6k Cost of raising additional capital – unquantified Reduced leveraging ability - unquantified	Better liquidity risk management Reduced risk of failure	
Customers	Ongoing		Reduced risk of financial loss due to firms failing or due to	

			shortfalls in funds owed to customers by insolvent firms	
The wider system	Ongoing		Increased financial stability	
Total cost	One-off	£1.6m		
	Ongoing	£17.3m		

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.

Impact on consumers

Our SCA-RTS amendments aim to enable more customers to access open banking products and services (as more ASPSPs provide an interface that can be used by all third party providers and without disruption every 90 days) and to create a better customer experience and saving time for those who are already customers, ultimately supporting more competition in the UK payments market, as more consumers benefit from products and services offered by account information service providers or payment initiation service providers as a result.

We also expect our guidance on our Approach Document and PERG to increase consumer protection and improve financial stability for firms, which in turn reduces risk of financial loss for consumers. Firms would be better able to withstand stressed scenarios and support an orderly wind-down, as well as repay customers in the events of failure.

Wider impacts on business

We believe our changes to SCA-RTS will make firms aware of the new rules and encourage them to make the necessary changes. They will also benefit from retaining existing customer and engaging new ones as a result of the Article 10A exemption and dedicated interfaces. Firms releasing testing facilities on the day of the launch could also reduce the costs associated with launching new products.

We think our changes to our Approach Document will create a strengthened payments market and means firms will be required to have processes in place which make them better able to withstand stressed scenarios.

Ultimately, this will help the UK payments market to be stronger while further supporting innovation and competition.