Title: SI 2015 No.2038 – The Payment Accounts Regulations 2015	Post-implementation review
PIR No: N/A	**Date: 18/09/2021**
Original IA/RPC No: RPC-3039(2)-HMT	**Type of regulation: EU**
Lead department or agency: HM Treasury	**Type of review: Statutory**
Other departments or agencies: Financial Conduct Authority (FCA)	**Date measure came into force: 15/12/2015**
	Recommendation: Keep
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1. What were the policy objectives of the measure?

Statutory Instrument (SI) 2015 No. 2038 – The Payment Accounts Regulations 2015 – ("the Regulations") transposed into domestic law the EU Payment Accounts Directive 2014/92/EU ("the Directive"). Ahead of the UK's withdrawal from the EU, the Regulations were amended by the Payment Accounts (Amendment) (EU Exit) Regulations 2019.

The Directive was introduced with the aim of improving the transparency and comparability of fee information about payment accounts (including current accounts), facilitate the switching of payment accounts, and ensure access to a basic bank account.

To improve the transparency and comparability of fee information about payment accounts (including current accounts), the Regulations put a requirement on firms to provide customers with a pre-sale fee information document (FID) and an annual statement of fees (SoFs). Both documents are required to use the terms featured in the 'linked services list', which was published by the Financial Conduct Authority (FCA) in April 2018 and effective from October 2018. The Money and Pension Service (MaPS) is also required to provide consumers with access to a website comparing fees charged by payment service providers for at least the services featured in the linked services list.

To facilitate the switching of payment accounts, the Regulations placed obligations on transferring service providers (i.e. the old payment service provider) and receiving service providers (i.e. the new payment service provider) to provide a switching service between current accounts. However, Member States were also able to establish or maintain an alternative switching service provided it is clearly in the interest of the consumer, presents no additional burden for the consumer and the switch is completed within the same time frame as the Directive, or less. In the UK, there was already the Current Account Switching Service (CASS) which fulfilled the latter obligation for member firms.

Finally, the Regulations gave consumers legally resident in the EU a right to open and use a basic bank account with firms located in their territory. HM Treasury (HMT) designated the largest personal current account providers in the UK to be legally required to offer basic bank accounts to customers who do not have a bank account or who are not eligible for a bank's standard current account. Basic bank accounts must be fee-free and not have an overdraft facility but must otherwise offer the normal services associated with a standard current account.

This review covers HMT's duty under Part 6, paragraph 44 (1) of the SI to carry out a review of the Regulations by 18 September 2021 assessing whether the original intended policy objectives have been achieved, if objectives remain appropriate and if so, the extent to which these objectives could be achieved through less onerous provisions.

2. What evidence has informed the PIR?

HMT contacted over 30 industry stakeholders (covering a vast majority of the payment accounts market) as well as the MaPS and Pay.UK (who operate CASS) to inform the evidence used in this review. HMT sent out a call for returns, asking respondents to provide qualitative and quantitative feedback on the Regulations.

Quantitative questions focused on actual costs to compare with estimated costs in the original Regulatory Impact Assessment (RIA), including changes to customer information, joining CASS and those of the comparison website. Qualitative questions asked stakeholders for feedback on whether the Regulations have achieved its objectives of transparency and comparability of fee information, switching of payment accounts, access to basic bank accounts and wider views on any unintended consequences and operational impact on firms.

HMT received a good level of qualitative responses from the larger firms (4 responses). However, only one medium firm and no smaller firms responded. HMT also received limited data/quantitative responses from all firms. To encourage further returns from stakeholders HMT contacted stakeholders via follow up communications, specifically calling for returns from medium and small firms and for returns that include quantitative cost impacts. However, this did not generate any further returns. This review also uses feedback from the designated comparison website provider, MaPS, and Pay.UK for comment on CASS.

Though a shortage of data in responses means accurate cost re-estimations have not been possible, HMT has been able to analyse the qualitative returns from firms which are representative of a significant proportion of the payment account market. Looking forward HMT will continue to utilise its good stakeholder relationships with firms impacted by these Regulations and will continue to invite feedback from firms on an ongoing basis to ensure the cost to businesses are recognised and not overly burdensome.

3. To what extent have the policy objectives been achieved?

The Directive was introduced with the aim of improving the transparency and comparability of fee information about payment accounts (including current accounts), facilitate the switching of payment accounts, and ensure access to a basic bank account.

The UK had already taken domestic action on the majority of the areas addressed by the Directive, including a series of measures delivered through UK Government agreement with the banking industry to improve transparency of fees and charges, such as annual statements and text message alerts for unarranged overdraft fees; the creation of the 7-day CASS which was launched in the UK in September 2013; and improving UK banks' existing basic bank account offer, alongside their other retail current accounts.

The UK Government's objective for the negotiations for the Directive was therefore to align the requirements as far as possible with existing UK practice, with a view to minimising any negative impact on UK industry and consumers. The Government adopted a similar approach in considering how to implement the Directive. The approach to implementation, set out in the RIA, aimed to minimise negative impacts on UK industry, preserving existing practices wherever possible.

HMT assesses that the principle three objectives of the Directive, and the objectives for implementation through the Regulations, have been met and this was evidenced in returns from stakeholders. Qualitative evidence provided by stakeholders generally found the requirements of the Regulations related to improving the comparability of accounts have brought benefits to consumers, by providing consistent terminology and linked services that enable customers to compare and track the fees charged. One firm indicated stakeholders were 'content with how the requirements operate[d] in practice' and another firm noted the FID had 'complemented' their existing processes for providing customers with fee information 'by giving customers the option to see the same information pre-sale in a prescribed format.' However, one firm noted that the FIDs and SoFs do not 'significantly aid comparability' for their customers and believe that the terminology is not 'customer friendly'.

Regarding the objective of facilitating the switching of accounts, HMT received good feedback on CASS. One firm said it considers CASS to be an 'extremely successful service in the UK, providing a valuable service to customers and enhancing competition across the personal current account market.' Another noted CASS provides reassurance for consumers that there is a guarantee which stands behind the service and it allows customers to understand exactly what will happen to their account.' The UK already had the CASS in place at the time of the implementation of the Directive, which minimised costs to businesses.

HMT assesses the requirements for designated firms to provide basic bank accounts have met the policy objectives. The provision of basic bank accounts is a key policy intervention as part of HMT's financial inclusion agenda, ensuring that as many people as possible can open a bank account. Overall, returns from stakeholders were generally positive with regards to the benefits of basic bank accounts, with one firm noting that 'basic bank accounts are an important tool to support financial inclusion, providing essential banking services to consumers who may have previously struggled to open a standard current account.' The largest payment account providers in the UK were already providing basic bank accounts to 'unbanked' customers in the UK following an agreement with Government in 2014. HMT designated the same firms for the purposes of the Regulations, which minimised additional costs to industry.

It is difficult to monitor the success of the implementation mechanisms given that the industry had already launched a series of similar measures prior to the implementation of the Regulations. In regard to compliance, reporting to the FCA is mandatory where a payment service provider offers a payment account within the meaning of the Regulations. These firms submit a report on a biennial basis and the FCA has a duty to gather the information and report this onward to HMT. The first tranche submissions were gathered manually in 2018 and the FCA are looking at an automated reporting requirement for firms going forward.

SCS of Retail Banking Policy Team

Signed: ***David Raw*** Date: ***04/06/2021***

Sign-off for Post-implementation review: Economic Secretary to the Treasury

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***John Glen MP*** Date: **17/06/2021**

Further information sheet

4. What were the original assumptions?

The UK Government was required to have implemented the Directive by 18 September 2016 to meet EU treaty obligations. The original RIA did not detail the time period in which forecasted costs and benefits were projected to materialise.

The Government implemented the Directive through aligning its requirements with pre-existing UK practice. The RIA's best estimate of the total costs of the Regulations was £94.94 million, with £94.1 million estimated for transition costs and £0.1 million estimated for average annual costs. A breakdown of the original assumption of costs against those provided in returns for this review is as follows:

- The RIA's best estimate of **familiarisation costs** was £0.02 million. This is because firms were likely to be required to carry out a degree of familiarisation once the Regulations were implemented to determine if any of their accounts were within scope. This best estimate assumed a cost of £171 per firm. For this review, HMT requested data estimates from stakeholders on what the real costs had been but received no returns. However, one firm said these were 'borne within business as usual budgets.'

- The RIA's best estimate of costs related to **changing customer information** was £91 million and was estimated to be significantly the largest cost that would be borne by firms. The RIA assumed a transition cost per firm of £4 million (large firms), £1 million (medium firms) and £0.5 million (small firms). In returns for this review, one large firm estimated partial costs to date in this area of over £10 million arising from initial transition costs and £1.6 million ongoing annual costs. A medium firm also provided an estimate of £110,000 ongoing annual costs in this area. Due to the limited number of other returns in this area we are unable to make clear comparisons between the costs estimated in the RIA and the actual costs borne by firms. Though it is possible from the evidence received that both the total transition costs and ongoing costs in this area could have been under-estimated in the RIA, it is also possible that some/all of these costs would have been borne by firms anyway in providing similar customer information before the implementation of the Regulations.

- The RIA's best estimate of the costs related to **packaged accounts** was £0.03 million. For this review, HMT requested data estimates from stakeholders on what the real costs had been but received no returns.

- The RIA's best estimate of the costs related to the **switching service** was £1.88 million. This assumed systems change costs of £100,000 (large firms), £40,000 (medium firms) and £5,000 (small firms). This was estimated as a transition cost as once system changes were made limited compliance costs were expected. HMT did not receive any returns with data on these costs.

- The RIA's best estimate of the costs related to **joining CASS** was £0.05 million. Of the 15-20 firms operating outside CASS at the time, it was assumed one medium seized firm (estimated cost £0.04 million) and one small firm (estimated cost £0.009 million) would choose to join CASS. In reality, more firms than estimated joined the CASS though returns did not specify the size of these firms. However, Pay.UK noted in their return that they provide free onboarding for all new participants, provided they join during their onboarding waves and don't have to pull out of the testing window. Costs to firms who are not part of CASS (or who do not have a switching service) were estimated to be £0.04 million.

- The RIA's best estimate of the costs related to **the Money Advice Service setting up a comparison website** was an initial set up cost of £0.5 million and an ongoing maintenance cost of under £0.2 million. For this PIR, HMT requested data estimates on these costs from the re-named Money and Pensions Service. Actual costs were less than the RIA's estimates, with initial set up costs estimated to be less than £50,000 and ongoing costs less than £100,000.

- The RIA's best estimate of the costs related to increased **Know Your Customer checks** verify new basic bank account customers in the EU was £0.42 million. This assumed a cost of £10,000 per firm on designing new checks and a further £50,000 (for large firms) and £20,000 (for small and medium firms) to carry out the changes. For this PIR, HMT requested data estimates from stakeholders on what the real costs had been but received no quantitative returns. However, one large firm noted that there were 'no additional KYC requirements' as a result of these regulations.

Limited data provided by firms during the call for returns for this review means that HMT is unable to make a full quantitative assessment of the extent to which the effects, costs and benefits anticipated in the original RIA occurred. However, HMT is satisfied that the qualitative responses indicate that the original policy objectives of the Directive and the Regulations were achieved.

5. Were there any unintended consequences?

Generally, the consequences of the Regulations have been as identified in the original RIA.

As discussed above, the actual costs to MaPS of establishing and operating a comparison website were lower than estimated in the RIA. However, given relatively low usage by consumers, the cost per user of the service is relatively high. That said, this does not detract from the overall value of the service and HMT intends to work with MaPS on non-regulatory measures to increase customer usage to ensure the comparison tool delivers value for money.

Some stakeholders also noted parts of the 'Linked Services List', agreed at an EU-level when the UK was a Member State, contains some terminology that is either outdated or not reflective of the services used in the UK and can be confusing to consumers. The FCA is required to review this list every four years, completing the next review by April 2022, and HMT will work closely with them on their review next year to look at these questions.

6. Has the evidence identified any opportunities for reducing the burden on business?

Though feedback on the requirement for firms to provide FIDs and SoFs was generally positive, with stakeholders noting that they help improve transparency and comparability of fee information about payment accounts, some firms did note there were some burdens to this requirement. Concerns centred around the fact the Regulations are overly prescriptive in this area (prescribing fonts and logo placements on documents) and some terminology may be outdated or not appropriate for the UK banking market.

Some stakeholders also identified that it would be beneficial to remove the requirement for firms to provide FIDs for accounts that are no longer on sale. Others disagreed with the requirement to send an annual SoFs to customers who incurred no fees in the reporting year.

Overall, HMT's view is that FIDs and SoFs enable enhanced comparability and transparency by introducing a level of standardisation of information across the market, making it easier to compare fees for the same service across different providers. However, HMT recognises there may be possible opportunities in this area to reduce burdens on firms while supporting consumers and will continue to consider these questions.

HMT also received views on the requirement for the largest UK retail banks to provide basic bank accounts to consumers who do not have another account. There were different views on the range of banks that should be designated for this requirement. The Regulations require HMT to consider banks' geographic coverage, their distribution of customers in the UK and their share of the UK's payment account market in deciding who to designate. HMT will keep the list of designated firms under review. Other views on basic bank requirements were related to questions outside of these Regulations and will be picked up separately.

7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?

UK retail banking has always largely been a domestic market. Following the UK's exit from the EU there is now even less competition to UK businesses from EU based competitors in relation to the provision of domestic retail banking services and UK businesses are placed at a limited competitive disadvantage by the Regulations.

The UK had already taken domestic action on many of the areas intended to be addressed by the Directive and the UK Government's objective was to align the Regulations with existing practice as much as possible. HMT's assessment is the cost to UK businesses was amongst the lowest of the other Member States at the time. For example, Germany, Italy and Hungary chose to implement a new current account switching service, which placed additional costs on firms in these Member States. Conversely, the UK already had the CASS in place. Many Member States also chose to require all firms who offer payment accounts to provide basic bank accounts, whereas in the UK HMT designated the largest firms in the market which means smaller firms faced lower costs than in other Member States.

Recommended Next Steps

This review proposes to **Keep** the legislation.

The Payment Account Regulations 2015 have made a positive contribution in improving the transparency and comparability of fee information, ensuring consumers continue to be supported in switching payment accounts and ensuring the continued ability for ‘unbanked’ consumers to have access to a basic bank account. HMT is satisfied that the objectives of the initial Directive, and the Regulations, have been met.

The limited data provided during the call for returns has meant HMT cannot fully examine the precise cost to businesses as a result of the Regulations but concludes that based on qualitative feedback these costs are unlikely to have been significantly greater than those estimated by the original RIA.

Qualitative evidence provided by stakeholders generally found the requirements of the Regulations related to improving the comparability of accounts have brought benefits to consumers, by providing consistent terminology and linked services that enable customers to compare and track the fees charged. Firms did raise some issues with these provisions, which we have highlighted in Questions 3, 5 and 6. There is also significant value in the requirement for MaPS to provide a comparison website. Regarding the objective of facilitating the switching of accounts, HMT received good feedback on CASS and already had the CASS in place at the time of the implementation of the Directive, which minimised costs to businesses. Finally, HMT assesses the requirements for designated firms to provide basic bank accounts have clearly met the policy objectives, and this requirement is a key pillar of HMT’s financial inclusion agenda.