

# Consultation Response



Implementation of the revised Payment Services Directive (PSD2): draft Approach Document and draft Handbook changes

StepChange Debt Charity consultation response to the Financial Conduct Authority

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We are an independent charity dedicated to overcoming problem debt. Our advice and solutions services are effective, tailored and importantly, free. Foundation for Credit Counselling Wade House, Merrion Centre, Leeds, LS2 8NG trading as StepChange Debt Charity and StepChange Debt Charity Scotland. A registered charity no.1016630 and SC046263. It is a limited company registered in England and Wales (company no.2757055).

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# Introduction

StepChange Debt Charity welcomes the opportunity to respond to this consultation. We are the largest specialist debt advice charity operating across the UK. In 2016 we were contacted by almost 600,000 people seeking debt advice, one every 53 seconds.

**Q10: Do you agree with the guidance we propose in Chapter 8 of the revised Approach Document in relation to changes to information requirements, rights and obligations and other changes? If not, please explain why not and suggest an alternative approach. Please provide the paragraph number when commenting on specific wording.**

It is important to ensure consumers are adequately protected where the transaction amount is not known in advance. For individuals in financial difficulty having funds blocked on their accounts could mean issues with paying essential bills or maintaining arrears repayments. Our clients, for example, on average have a monthly surplus (the amount left after paying for essentials) of only £60; almost one in three (29%) has a negative budget. This means that even small restrictions on their cash flow can have a significant negative impact.

Therefore we agree with the guidance proposed in Chapter 8 of the revised Approach Document, which we believe will offer consumers greater certainty regarding pre-authorisations. In particular we support the following guidance:

- 'Once the PSP becomes aware of the amount of the transaction, it must release the funds without undue delay and, at the latest, immediately after receipt of the payment order'
- 'We...expect PSPs to take a reasonable approach to releasing funds...and to do so in accordance with existing industry practice. We understand this to be approximately seven days for credit card transactions and five days for debit card transactions'

Once PSDII is in place, it will be important for the regulators to ensure PSPs are sticking to the guidance in the Approach Document.

**Q11: Do you agree with the two versions of the guidance we propose in Chapter 8 of the revised Approach Document relating to monthly statements, including the guidance which assumes the Treasury exercises the member state option? If not, please explain why not and suggest an alternative approach**

We are concerned requiring payers to 'opt in' under the alternative to the member state option to receiving monthly statements may have an unintended consequence.

PSPs can use monthly statements as an opportunity to provide customers with additional information, for example sources of free debt advice. If monthly statements are no longer provided as a matter of course, it is possible a large number of people may find it more difficult to seek appropriate debt help, or at least might delay seeking help for longer than they would have done.

Therefore we would urge regulators to either a) recommend HMT pursue the member state option, or b) change the guidance under the alternate option so that PSPs allow customers to 'opt out' of monthly statements, rather than 'opt in'. This would mean customers would continue to receive a monthly statement unless they chose not to.

**Q13: Do you agree with our proposed changes to the timeline for referrals to the Financial Ombudsman Service? If not, please explain why not and suggest an alternative approach.**

If the regulator aligns DISP rules for PSPs with PSDII, reducing the amount of time firms have to respond to complaints to 35 days (15 business days, if no holding response has been sent), it is important they give firms sufficient time to adjust systems and processes to implement this change.

**Q14: Do you agree with our proposed changes to BCOBS? If not, please explain why not and suggest an alternative approach**

*Incorrect payment routing*

We agree that the changes to BCOBs should increase the chances of consumers recovering funds following incorrect payment routing. The new rules, where the payee's PSP must co-operate with the payer's PSP in its efforts to recover funds, should lead to successful resolution in more circumstances.

However, we are concerned about the requirement that a written request must be made by the payer before they are sent all relevant information for claiming repayment of funds. There is potential for this to be a barrier to consumer redress. The regulator may wish to encourage an automated process, with the PSP providing the information to the payer without need for a request from the payer.

*Unauthorised transactions*

We agree it is sensible to align BCOBs with the PSRs 2017 regarding banking customer liability for an unauthorised transaction. Reducing the liability from £50 to £35 should also be of help to those in financial difficulty who find themselves in this position.

Going forward, we wonder whether the regulator may wish to work with banking institutions to make the liability £0 for those in financial difficulty.

## *Authentication*

Two stage authentication processes often necessitate the use of smartphone technology, in particular when biometric systems are in place. This raises the possibility that increased use of authentication process may prevent access to payment services, especially among older consumers and those on a low income. This is an issue the FCA may wish to consider given its current focus on access issues.

**Q30: Do you agree with the Payment Systems Regulator's proposed approach to monitoring compliance with Regulation 61 of the PSRs 2017? If not, please explain why not and suggest amendments. Is there anything additional that it would be useful for us to provide in our guidance?**

Although we have no issues with the regulators proposed approach to this issue, we would appreciate if the final guidance provided more clarity on how the enforcement process will work, seeing as in this area the regulator will be working jointly with LINK, VISA and Mastercard. We would also be keen to understand who will report data in this area.