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Wednesday 10 August 2022

Dear Neil

**Re: PSR CP22/3 Card-acquiring remedies market review; provisional decision**

We welcome the opportunity to provide input to the PSR's provision decision following the card-acquiring remedies market review.

The EMA is the EU trade body representing electronic money issuers and alternative payment service providers. Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document. The EMA has been operating for over 20 years and has a wealth of experience regarding the regulatory framework for electronic money and payments. A list of current EMA members is provided at the end of this document at ANNEX II.

We would be grateful for your consideration of our comments to the provisional decision, which are set out below at ANNEX I.

Yours sincerely

A handwritten signature in black ink that reads 'Ihan Salim'. The signature is written in a cursive style with a long horizontal stroke at the end.



Dr Thaer Sabri  
Chief Executive Officer  
Electronic Money Association

## ANNEX I

### *Timeline to comply*

The PSR have provisionally decided that the remedies must be in place and fully implemented no later than three months after the final decisions are given. [CP 2.17]

We do not consider that three months is sufficient for providers to build the online quotation tool and put in place mechanisms in order to send the required trigger messages. We therefore propose changing the decision so that the remedies must be in place and fully implemented no longer than **12 months** after the final decisions are given. The PSR may also wish to consider a phased approach, whereby some remedies are implemented later than others.

We note the PSR's assertion in paragraph 2.7: *In our stakeholder engagement, providers have indicated that this would be a reasonable period for implementation given the systems requirements for the remedies we plan to introduce.* However, our members do not share this assessment.

Should the PSR's short timeframe remain, providers may have to begin implementation prior to the remedies becoming finalised in the form of directions. To do so creates a risk for providers that their solutions fail to meet the final directions' requirements, and require costly re-working in very short timescales.

The likelihood of this risk arising is illustrated by the fact that since the PSR published CP22/1 Consultation on Remedies in January 2022, the proposed remedies described in that consultation differ from the remedies described in CP 22/3 in the provisional decision. For example, in CP22/1 in January 2022, the PSR proposed a third party / intermediary building and providing a digital comparison tool ("**ICT**") whereby PSPs would provide pricing data to this intermediary to collate in an ICT. This has now changed in CP 22/3 in the provision decision to PSPs **themselves** building an online tool to provide to customers on their website. This is a completely different proposition necessitating more resources on the part of PSPs subject to the directions.

PSPs subject to direction by the PSR must be given adequate notice and we consider that three months to implement the remedies set down by Directions 1 and 2 is not adequate. In summary, we ask the PSR to extend the deadline for implementation to 12 months after the final decisions are given.

### *Scope of PSPs*

The PSPs subject to the specific directions are 14 providers of card-acquiring services. We note these providers have been identified as the most significant providers of card-acquiring services to the merchants in the UK. The PSR identified these providers based on volumes and value of transactions processed, and the numbers of small and medium sized merchant customers served [CP22/3; paragraph 2.10].

We would welcome further clarity on the following matters:

1. The rationale for proposing specific directions to 14 named firms rather than a General Direction.
2. Over what time period was the data the PSR used to identify the list of 14 firms.
3. How the PSR intends to manage and update the list of directed PSPs in the future. For instance, what are the thresholds below which a PSP would no longer be considered of sufficient size to warrant direction, and similarly how will new PSPs be added to the list should their market share increase. Does the PSR intend to review this list on an ongoing basis or periodically, and if the latter, what frequency does the PSR consider sufficient?

### *Scope of merchants*

The remedies that will address the features of concern relating to price transparency (summary boxes and online quotation tools) and the indefinite nature of some contracts (trigger messages) will apply to the directed providers in respect of their merchant customers with a card turnover up to £50 million [CP22/3; paragraph 2.13].

The scope of merchants for directions 1 and 2 **should be reduced from GBP 50 million to merchants with a card turnover up to GBP 10 million**. Merchants with high card turnovers (for example, between GBP 10 million and 50 million) are highly sophisticated businesses that demand bespoke pricing from their acquirers. They engage in commercial negotiations with their chosen acquirer to negotiate the price of services. Such sophisticated merchants do not require summary boxes; they already have complex commercial contracts with pricing schedules that set out the exact price they have negotiated. These merchants have carefully considered the pricing to which they have agreed in the course of commercial negotiations – a summary box does not provide any helpful information to them.

Further, sophisticated merchants do not visit PSPs' websites and obtain pricing information through an online tool. The merchant would, generally speaking, liaise with the acquirer through a dedicated business development manager (or similarly titled representative of the

acquirer) who will offer solutions and pricing, tailored to the merchant's particular requirements.

Given this market reality, merchants with high turnover (between, for example, GBP 10 million and GBP 50 million) will not benefit from summary boxes – the summary boxes are not sophisticated enough for their purposes (more comments on this below). Second, such merchants will also not utilise an online pricing tool as proposed in the directions.

We therefore ask the PSR to change the scope of the remedies to apply to merchant customers with a card turnover up to £10 million (down from GBP 50 million).

We would also welcome clarity regarding how the card turnover should be calculated; should it be based on projected volumes or historical volumes for example.

### *Direction 1: Summary box*

Annex 2 of CP 22/3 sets out two options for the template summary box. We consider that both of these template options are too prescriptive. Rather than requiring PSPs to use a prescribed form of summary box, we propose the PSR direct PSPs to disclose certain minimum data points to merchants **but not mandate the format in which these data points are provided.**

The PSP would therefore be free to choose the format in which this data is provided to the merchant.

This would allow the PSP to provide the merchant with the practical information in a manner that aligns with their branding and customer proposition.

Micro and small merchants (who have a lower card turnover) often pay acquiring charges based on a blended rate. Which is usually not delineated by payment method or CNP / CP. This is straightforward for the micro or small merchant to work with; they can therefore get on with their business and not expend resources negotiating complex Interchange Plus (IC+) or Plus Plus (IC++) pricing (in the way in which a large merchant would).

We note that for these micro and small merchants paying a blended rate, the fields in the summary boxes will be filled with repetitive information or just generally not apply. In this case, the merchant would find it more helpful if the PSP were to provide information that was based on their pricing structure rather than trying to convey simple pricing (blended) into a complex format (the summary box).

The summary box template is also not suitable for large merchants (i.e. those merchants with a significant card turnover of, say, above GBP 10 million). For these large merchants, the summary box is too simple and does not provide enough detail. Large merchants can spend a lot of time and resources carefully considering and negotiating IC ++ pricing with their acquiring partner. The summary box template does not display the extent of this detail and is therefore not helpful for large merchants either.

We do not consider that a single summary box template can convey meaningful information to all types of merchants whether micro merchants on simple blended pricing or large merchants who have negotiated complex IC++ pricing.

We therefore propose the PSR, instead of proceeding with the summary box, set down minimum data points that the PSP must disclose the merchant. This will allow the PSP to disclose pricing data in format that is helpful to the merchant rather than in a format that may be unhelpful or unsuitable.

If the PSR do progress with a standardised summary box, they may wish to consider standardising terminology and calculation methods as different acquirers tend to use different terminologies for different types of fees, and the summary boxes will otherwise not be comparable.

### ***Direction 1: Online quotation tool***

As set out in our comments above in “Timeline to comply”, we believe that it will take longer than three months to build, test and launch the online quotation tool. Accordingly, we propose the PSR extend the timeline to comply to 12 months following the final decisions.

As set out above under “Scope of merchants”, we reiterate here that, in practice, merchants with a turnover of between GBP 10 million and GBP 50 million want bespoke pricing for acquiring services. They will engage in sophisticated commercial negotiations to agree the pricing for acquiring services that best suits their business. Large merchants with this level of turnover do not visit PSPs’ websites searching for pricing. Large merchants could, for example, submit an RFP to several acquirers. When large merchants interact with one acquirer, they liaise through a dedicated business representative who will offer solutions and pricing tailored to the merchant’s business.

For these reasons, the PSR should change the scope of the online quotation tool remedy to apply to merchant customers with a card turnover up to GBP 10 million (down from GBP 50 million). In practice, large merchants will not utilise the online quotation tool. Even for smaller

customers however, as the online quotation tool can only provide indicative pricing, its value may be limited.

We would also welcome clarity regarding the data points that should be included in the online tool.

### ***Direction 2: Trigger messages***

The PSR proposes to require PSPs to send the trigger message on a monthly basis (after the minimum term of the contract if there was a minimum term) to remind the merchant that they can switch provider [CP22/3; direction 2; paragraphs 3.7-3.10]. We believe that monthly trigger messages is far too frequent and may not achieve the objective that the PSR intends.

Receiving the same message on a monthly basis will likely become tedious for merchants. The merchant may respond by not paying attention to such a message; the merchant may even make a complaint about receiving spam.

We therefore propose:

- The frequency of the message is changed to once per year; or
- The merchant may elect to pause these messages, for example, by changing the settings in the merchant portal.

Separately, the requirement to display the trigger message prominently on the first landing page of the electronic dashboard [CP 22/3; direction 2; paragraph 3.12] should be removed. Prominently displaying this message and telling the merchant they should consider other providers may erode the merchant's trust in the PSP and damage the commercial relationship. Without knowing the regulatory context, these trigger messages will appear as though the PSP is trying to push the merchant away when, in reality, the merchant is a valued customer with whom the PSP shares a strong working relationship.

We therefore propose the PSR remove the requirement for the trigger message to be displayed prominently on the first landing page. We consider that sending the message once per year is sufficient.

### ***Direction 3: POS contracts***

The PSR has capped the minimum term of all POS contracts to 18 months [CP 22/3; direction 3; paragraphs 3.5 and 3.6].

We are not sure this remedy will have the effect the PSR intends, and we invite the PSR to provide further detail on the benefits that it believes maximum POS terminal lease and rental contracts can create for innovation and competition in the market.

It is not feasible to put a one-size-fits-all minimum term on all POS contracts. An 18-month cap on minimum terms does not affect, for example, a less-expensive POS terminal with minimal functionality for which the merchant leases month to month. However, the PSR is also seeking to apply the same minimum term to POS terminals that have extensive functionality and therefore cost more. A merchant will seek to spread this cost over a longer period of time.

Some PSPs subject to direction 3 offer POS stations that offer extensive functionality in addition to accepting payments that assist the merchant in the overall running of their business. For example, POS stations that enables merchants to check and manage inventory, take bookings, track sales, manage a staff rota, operate a loyalty scheme, access an app market, analyse data to inform customer trends and so on.

POS stations with this type of functionality are frequently offered to merchants on a hire-purchase arrangement whereby the merchant makes periodical payments and then owns the POS at the end of the term. The term for arrangements such as this can span years. This arrangement works for the merchant because they get to use the POS station immediately, whilst spreading the payments out to make them more manageable and affordable. Condensing periodical payments for a POS station (such as the one described above) into 18 months will have an impact on merchants, as spreading the purchase price of the POS station only over a period of 18 months would mean the periodic payments would increase to an unaffordable level, and reduce the merchant's choice.

We therefore believe that the length of contract term cannot be generalised and still meet the needs of merchants and so propose that the PSR should reconsider the impact of direction 3 relating to POS.



**ANNEX II: List of EMA members as of August 2022:**

[AAVE LIMITED](#)  
[Account Technologies](#)  
[Airbnb Inc](#)  
[Airwallex \(UK\) Limited](#)  
[Allegro Group](#)  
[American Express](#)  
[ArcaPay Ltd](#)  
[Azimo Limited](#)  
[Banked](#)  
[Bitpanda Payments GmbH](#)  
[Bitstamp](#)  
[BlaBla Connect UK Ltd](#)  
[Blackhawk Network Ltd](#)  
[Boku Inc](#)  
[Booking Holdings Financial Services](#)  
[CashFlows](#)  
[Circle](#)  
[Citadel Commerce UK Ltd](#)  
[Contis](#)  
[Corner Banca SA](#)  
[Crypto.com](#)  
[Curve](#)  
[eBay Sarl](#)  
[ECOMMPAY Limited](#)  
[Em@ney Plc](#)  
[emerchantpay Group Ltd](#)  
[ePayments Systems Limited](#)  
[Etsy Ireland UC](#)  
[Euronet Worldwide Inc](#)  
[Facebook Payments International Ltd](#)  
[Financial House Limited](#)  
[First Rate Exchange Services](#)  
[FIS](#)  
[Flex-e-card](#)  
[Flywire](#)  
[Gemini](#)  
[Global Currency Exchange Network Limited](#)  
[Globepay Limited](#)  
[GoCardless Ltd](#)  
[Google Payment Ltd](#)  
[HUBUC](#)  
[IDT Financial Services Limited](#)  
[Imagor SA](#)  
[Ixaris Systems Ltd](#)  
[MANGOPAY](#)  
[Modulr FS Europe Limited](#)  
[MONAVATE](#)  
[Moneyhub Financial Technology Ltd](#)  
[Moorwand](#)  
[MuchBetter](#)  
[myPOS Europe Limited](#)  
[NOELSE PAY](#)  
[NoFrixion Ltd](#)  
[OFX](#)  
[OKTO](#)  
[One Money Mail Ltd](#)  
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[Park Card Services Limited](#)  
[Paymentsense Limited](#)  
[Paynt](#)  
[Payoneer Europe Limited](#)  
[PayPal Europe Ltd](#)  
[Paysafe Group](#)  
[Plaid](#)  
[PPRO Financial Ltd](#)  
[PPS](#)  
[Ramp Swaps Ltd](#)  
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[Weavr Limited](#)  
[WEX Europe UK Limited](#)  
[Wirex Limited](#)  
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[WorldFirst](#)  
[WorldRemit LTD](#)

Yapily Ltd