Payments Landscape Review: Call for Evidence

Submission by Barclays

Barclays is a transatlantic consumer and wholesale bank with global reach, offering products and services across personal, corporate and investment banking, credit cards and wealth management, with a strong presence in our two home markets of the UK and the US. With over 325 years of history and expertise in banking, Barclays operates in over 40 countries and employs approximately 85,000 people. Barclays moves, lends, invests and protects money for customers and clients worldwide.

Barclays Perspective

Barclays strongly supports policymaker efforts to ensure the UK has strong, efficient and resilient payment networks that provide consumers and merchants with a choice of innovative and safe payments options. As such, it is positive that the Government is looking to review the current payments landscape, in order to identify emerging risks and potential opportunities to improve the landscape going forward.

Barclays welcomes the opportunity to respond to this Call for Evidence; we initially provide a high level 'Barclays Perspective' setting out our key points, before turning to the specific questions posed.

Government Objectives for Payment Networks

Barclays considers that the Government is broadly achieving its four objectives for the UK's payment networks.

<u>Objective: UK payment networks that operate for the benefit of end users</u>

- We believe the UK has one of the most feature rich and innovative payment system ecosystems in the world, with new functionality continually being implemented (e.g. Confirmation of Payee (CoP), ISO 20022, Request to Pay), and – importantly – it is free to use for consumers. Combined with recent governance changes for the payment systems, we firmly believe that payment systems operate for the benefit of the end users.
- However, to ensure they continue to benefit end users going forward, we believe policymakers should look to mandate the Contingent Reimbursement Model (CRM) Code to ensure consumers are protected against scams, and ensure consumers are appropriately protected when making payments through Payment Initiation Service Providers (PISPs)

<u>Objective: UK payments industry promotes and develops new and existing payments networks</u>

- We believe the industry is proactively developing the UK's payment networks (e.g. the introduction of PIS payments, ISO20022, CoP and the work towards New Payments Architecture (NPA)).

- While policymakers have key role to play in removing barriers to growth, and enabling innovative solutions to succeed, we believe that it is important that the actual development of specific propositions be left to the market (to respond to consumer demand). While it is positive that policymakers continually look to improve the system, many recent changes (including for example Open Banking) are still to 'bed-in' and fully establish themselves. It is therefore important that industry is provided with sufficient time to innovate and adapt to the emerging market opportunities following these changes, before policymakers seek to make any significant further changes.

Objective: UK payments networks that facilitate competition by permitting open access to participants on reasonable commercial terms

- We note that the number of direct participants in the Faster Payment Scheme (FPS) has increased. We believe that direct access should be an option available to all firms who meet the minimum standards required to ensure the stability of the system, though we recognise that this may mean direct access is not feasible for many firms.
- However, we believe that indirect access is likely sufficient for the majority of firms looking to access schemes, with banks offering access at competitive, reasonable rates. We believe the legal obligations placed on indirect access providers to monitor the activity of third parties to prevent any financial crime risk may explain why there are currently few providers. We believe there should be greater focus on making it easier for banks to support firms to access schemes with limited liability, and to enable a cost efficient service to PSPs.

Objective: UK payment systems that are stable, reliable and efficient

- We believe the UK payments systems have predominantly proved to be resilient. Looking forward, we note the trend for the "unbundling" of payments networks could – whilst helping drive innovation - also potentially lead to complexity and fragmentation (which may in turn drive undesirable outcomes, including but not limited to resiliency concerns). We therefore urge Government to consider a 'systems wide' evaluation of existing and future risks in this regard, and to work with industry to agree how to retain the benefits of such innovation whilst mitigating potential detriment.

Faster Payments - Protections for When things 'Go Wrong'

Barclays notes that for certain instances of a Faster Payment 'going wrong', the FPS has processes and rules in place to resolve the problem, supported by legislation. For example, the issue of misdirected payments is already covered by the Payment Services Regulations. However, where the FPS does lack rules to resolve problems are with respect to Authorised Push Payment (APP) scams, and purchase disputes / merchant insolvencies.

Regarding protections from APP scams, Barclays believes that additional protections are required for FPS payments to guarantee that the CRM Code covers all customers, not just those of the voluntary Code signatories. Considering that previous industry attempts to amend FPS scheme rules to support aspects of the CRM were rejected by Pay.UK (and we understand that this position has not changed), we believe any move to make the CRM mandatory must be predicated upon a regulatory or legislative underpinning, which could then be implemented through changes to the scheme rules.

Furthermore, we believe that those in the broader scams ecosystem, i.e. firms outside the financial services sector that enable scams to take place due to vulnerabilities on their platforms, should have greater responsibility to prevent scams taking place on their systems, and ultimately should be accountable for reimbursing victims who incur losses due to scams that they enable.

Consumer Protections and Payment Initiation Services

Barclays believes the introduction of PIS payments is a positive development in the UK payment market that will drive competition and innovation, and provide significant benefits to consumers and merchants.

However, one area that we believe presents a risk to consumers, and therefore presents a challenge to the uptake of PIS services, is the current lack of wide-spread consumer protections to protect users. There is a risk that consumers may use PIS payments for the benefits they offer, but may be unaware that they do not benefit from the same protections offered by other payment methods, and could ultimately lose out financially if something 'goes wrong'.

Barclays believes it is imperative that consumers fully understand the protections they will benefit from with different payment options. We therefore believe Government and industry should undertake a comprehensive education campaign to raise consumer awareness of the different protections that exist across the payments landscape, including highlighting any protection gaps, to enable consumers to make an informed decision as to which payment methods are appropriate for them. An educated consumer base making informed choices will likely drive the competitive PIS market to develop its own consumer protection framework, as was the case with debit card charge back framework.

Furthermore, we believe it is crucial that government is clear, and consumers understand, that banks are not responsible for reimbursing consumers making PIS payments, should they lose out financially due to merchant insolvency or commercial dispute.

Going forward, policymakers should continue to monitor the PIS consumer protection landscape, and should it become clear that the market has not developed to appropriately protect consumers, and consumers are at risk, policymakers should consider whether a more formal consumer protection framework is required for PISPs.

New Payment Service Providers and Changes to Payment Chains

Barclays recognises the trends identified in the Call for Evidence document – specifically new service providers entering the market and the unbundling of payment chains.

Barclays notes in particular that not only are a greater number of different firms increasingly involved in payments chains, but that their 'type' is also rapidly changing – with fintechs (and increasingly BigTechs) becoming part of the networks.

Whilst this is welcome in many respects, and has helped drive innovation and competition, such firms may often operate under different and narrower regulatory frameworks than traditional firms providing payment services. This has the potential to create a variety of new risks (particularly as their role in the payments networks increases), which may ultimately result in customer detriment (along with broader systemic risks). Barclays therefore strongly believes that market participants offering effectively the same service or product should be regulated by rules that are activity-based and conceived according to the risks that the specific activities produce – in particular for end-users. In other words, policymakers should look to regulate according to the principle of 'same activity, same risks, same regulation'. Given the rapid changes taking place within payments networks, we urge Government to consider how such an approach could be rapidly developed and deployed.

Furthermore, Barclays notes that as payments chains become increasingly fragmented (and in places opaque), there is a danger that smaller or hidden players, currently outside of the regulatory perimeter, become key and necessary linkages. Should these linkages fail, there is potential for significant disruption. It is therefore vital the regulatory perimeter provides regulators with appropriate oversight across all of the payments ecosystem (including an understanding of where such dependencies exist) and includes protections and provisions to avoid any vulnerabilities. Building on the previous paragraph's recommendation, we therefore believe that policymakers should consider how the current regulatory perimeter could be updated to reflect changes in the payment landscape, and bring into scope any parties currently outside the perimeter.

Cross-Border Payments

Barclays supports initiatives that seek to drive standardisation in payments within and across regions, remove friction, and facilitate international payments for consumers and businesses. While there may still be room for improvement, SWIFT gpi statistics indicate that the majority of payments are being processed very quickly, and this will only improve over time as more banks participate in SWIFTgpi. While we do not believe participation in SWIFT gpi should be mandated, we believe greater participation in the initiative would help reduce costs and increase speed of cross border payments. We would also note that there are new market entrants which focus specifically on international payments or on facilitating cheaper and quicker international payments; competition and innovation in the sector will also likely drive down prices and speed up transfer times. Given there are a number of industry initiatives seeking to improve cross-border payments, we believe policymakers should wait to see how the landscape evolves before considering further changes.

Call for Evidence Questions

The Government's Aims

UK payments networks that operate for the benefit of end users

1. *To what extent do you consider that the government's objective that UK payments networks operate for the benefit of end users has been met?*

Overall, Barclays considers that the payment networks in the UK are working well, and do operate for the benefit of end users.

The UK has been at the forefront of global payment systems since the introduction of the Faster Payment Scheme, which has delivered significant benefits to UK consumers and businesses. It has enabled 24/7 real-time payments, providing consumers and businesses with increased efficiency and convenience in making payments and has provided increased choice in terms payment method.

The UK has one of the most feature rich and innovative payment system ecosystems in the world· use of the payment systems remains free for consumers. The Payment Strategy Forum's blueprint for the future of payments in the UK did not identify anything particularly deficient and many of its recommendations are either being implemented (confirmation of payee; request to pay) or will be implemented (ISO20022) soon.

The consultation document acknowledges a lot has changed in recent years in how the sterling interbank payment systems are governed.

- In 2015 Barclays and other banks owned and were represented on the Boards of the interbank non-card payments system operators, and the infrastructure provider for those systems. Now that is no longer the case. Three of the existing payment system operators, for Bacs, Faster Payments and Cheques, have merged into Pay.UK, which is entirely independent from the banks, and has an explicit end-user objective in its company purpose. It has also set up an end-user advisory council to support its board. The end-user council is required to report annually and publicly on their work, and may make other public statements as they see fit. This helps to ensure that the system is operated for the benefit of end-users.
- The Bank of England has also taken over the operation of the CHAPS payment system, and LINK has reformed its governance arrangements**.**

These governance changes and the existence of direct regulatory oversight all help to ensure that the UK payment networks operate for the benefit of end users.

2. *What do you think industry, regulators and government should do in order to further ensure that UK payments networks operate for the benefit of end users?*

Overall, Barclays believes that the UK's payments networks are working well.

However, one area where we believe further government action would be beneficial is the issue of consumer protections and the disparity that exists across the payments landscape.

- As per as response to Question 10, we believe government should take action to mandate the Contingent Reimbursement Model (CRM) code for all users of the Faster Payment Scheme (FPS), and consider how players who facilitate scams in other sectors beyond financial services e.g. BigTechs and Telcos, could be made responsible for preventing scams on their systems, and reimbursing any victims.
- Further, as set out in more detail in our response to Question 12, we believe policymakers should consider the consumer protection landscape for Payment Initiation Service (PIS) payments and take necessary action to ensure consumers are aware of the protections they are receiving, or indeed, not receiving.

While the UK has one of the most innovative payment system ecosystems in the world, other countries are continually investing in more advanced payment systems. For example, Sweden, the Netherlands and India, have all innovated in different ways, to make it easy for consumers to pay by bank transfer at point of sale, for example by mobile number, or QR code. It is important therefore that Government and regulators continue to assess UK payment systems to consider how they can be improved, including by looking to learn from the experience of other jurisdictions.

A UK payments industry that promotes and develops new and existing payments networks

3. *To what extent do you consider the government's objective for a UK payments industry that promotes and develops new and existing payments networks has been met?*

Barclays notes that the development of entirely new payment networks is relatively rare, given the expense and the need for ubiquity; cheque imaging and FPS being the two most recently introduced new payment networks.

However, we believe the industry is succeeding in promoting and developing the existing payment networks in the UK, with the payments landscape experiencing significant change in recent years. For example:

- PIS payments - the introduction of innovative payment initiation services as an overlay service using existing infrastructure.

- ISO 200022 - we are also entering a significant period of change in the UK and globally with the shift to the use of ISO 200022 payment messaging, including for the UK's CHAPS payment system. The use of a common payments language across the world could help improve payment efficiencies, provide more information in a structured form alongside a payment (such as purpose of the payment or information to aid reconciliation).
Confirmation of Payee - UK payment networks are also beginning to see the introduction of Confirmation of Payee which we expect to be a significant tool to reduce misdirected payments and help fight against fraud.
- New Payment Architecture (NPA), - Pay.UK is also developing the New Payments Architecture to upgrade to the existing sterling retail interbank payment systems.

4. *What do you think industry, regulators and government should do in order to further promote and develop new and existing payments networks?*

Policymakers have an important role to play in removing barriers to growth, facilitating innovation and enabling innovative payments methods to succeed. Development of innovative payment methods should then be demand driven by industry, with the market offering a range of payment solutions, and merchants and users determining which they wish to use based on their specific needs and preferences. While it is positive that regulators and government look to enable innovation, it is important that they remain agnostic on the merits of particular propositions or payment methods and do not seek to advantage one over an another.

Barclays notes the increased appetite in the EU to launch a new pan-EU instant payment based framework, as well as the recent launch of the 'European Payments Initiative', an initiative backed by 16 European banks intended to facilitate such a framework. While Barclays is not currently part of this initiative, we would recommend Government closely monitor developments and seek to assess the impact on market dynamics. While we recognise the potential benefits an instant payments system could offer merchants accepting payments, we do not believe policymakers should favour a wholesale move to such a system in preference to existing networks. Both can exist in parallel.

As set out in our response to Question 3, there are significant developments of the payment networks currently underway. While it is right that policymakers continually look to improve the system, many of the more recent changes are still to 'bed-in' and establish themselves. It is important therefore that industry is provided with sufficient time to innovate and adapt to the emerging market opportunities following these changes, before policymakers seek to make any significant further changes.

Regarding the NPA, Barclays ideally would wish for a system that: provides flexibility and choice for customers; is easy for Payment Services Providers to access; is designed in a scalable, modular and future-proofed manner; is supportive of FinTech innovations; and provides maximum opportunity for competition and differentiation between PSPs. However, we believe further work is required to re-evaluate the proposed NPA. The project itself has recognised this and has proposed a more phased approach to the regulator.

One of the critical challenges of the NPA project is the migration of Government and business payments and collections from the Bacs payment system to the NPA. The Bacs payment system is responsible for over 70% of the volume and value of payments of the planned NPA. We would encourage policymakers to work with Pay.UK, the regulators, PSPs and end-users to ensure that decisions on the future of the NPA project are the right ones. Barclays would prefer the NPA to adopt a phased approach to the transition that allows PSPs and end users to benefit from a modernised retail payment system for real time payments sooner and in a cost effective manner. Specific challenges around the Bacs payment system and migration from it can then be addressed in appropriately considered manner.

UK payments networks that facilitate competition by permitting open access to participants or potential participants on reasonable commercial terms

5. *To what extent do you consider the government's objective to facilitate competition by permitting open access to participants or potential participants on reasonable commercial terms has been met?*

Barclays believes that the government is achieving its objective to facilitate competition by permitting open access to participants on reasonable commercial terms.

In the context of direct access, there has been a significant increase in the number of direct participants, especially in the FPS. Action by the FPS and the Bank of England has facilitated this, for example allowing the use of safeguarding funds for settlement. Initiatives like this has made it easier and cheaper to access payment systems directly. As the PSR's fourth report into access found, in 2018 there was a record number of new direct participants in the FPS, and this included non-bank participants. It also included institutions connecting via the new directly connected non-settling participant model. This allows PSPs to connect directly to FPS even if they do not have a settlement account with the Bank of England. Barclays are proud to support this access method. Barclays are the only institution that supports all access methods to FPS and other sterling interbank payment systems.

Barclays considers it important that the UK has competitive and resilient payment systems. We therefore believe that direct participation in payment systems should be an option for all firms that meet the requisite minimum standards designed to ensure stability of the broader system. We would note however, that the minimum standards required result in infrastructure costs and compliance obligations which, while essential to protect the system, may mean direct access is not feasible for many payment and e-money institutions.

Regarding indirect access to payment networks, currently there are only a small number of banks (indirect service providers) that provide third parties with agency access to FPS, Barclays being one. This relatively low service provision may be as a result of the legal obligation to monitor the payment activity of the third party to prevent any financial crime risk, which the indirect access provider remains responsible for. Those obligations can be particularly onerous with regard to smaller payment institutions and e-money institutions where the cost and resource required by an indirect access provider to effectively monitor the payment institution or e-money institution is often disproportionate to the commercial return for the indirect access provider. It is also the case that smaller payment institutions and e-money institutions may not have the resources to invest in a financial crime compliance program which is sufficiently robust to provide the indirect access provider with confidence that it is managing its financial crime risk appropriately.

It is also the case that payment institutions and e-money institutions are developing new business and operating models to support the innovative services they offer to their customers. These new business and operating models are often complex and may involve multiple payment institutions and e-money institutions in multiple jurisdictions. This increases the resources and expertise needed by indirect access providers to monitor their clients, and presents new and varied financial crime risks, especially where those services are offered through existing payments infrastructure or arrangements.

That said, the sector is continually evolving, with more providers entering the market in recent years. Initiatives like the voluntary agency bank code of conduct and the PSR's regulatory direction have increased transparency about the services offered, the details of how to apply for indirect access and improved service levels. Pleasingly the PSR's most recent report states that 95% of those with indirect access are satisfied or very satisfied with the quality of their indirect services. Nonetheless we would welcome more PSPs offering indirect access in this market to increase competition.

6. *Are there further barriers preventing open access to participants or potential participants on reasonable commercial terms?*

As set out in Question 5, Barclays believes that direct participation in payment systems should be an option for all firms that meet the requisite minimum standards, designed to ensure stability of the broader system. We would note however that the minimum standards required e.g. infrastructure costs and compliance obligations, while essential to protect the system, may mean direct access is not feasible for many payment and e-money institutions. While these minimum standards present challenges for participants seeking to gain access to systems, they are vital to protect financial stability and the integrity of the payments network as a whole.

It is possible that some of these challenges to direct participation could be mitigated or reduced. For example, the use of technical aggregators can reduce the infrastructure costs which have to be incurred to be able to access a payment scheme directly. In addition, as RT2 and the NPA work develops to renew the existing payment systems, we would expect the capacity of the schemes to absorb new participants to increase significantly.

Regarding indirect access, as set out in Q5, the significant oversight required to monitor the payments activity of the third party to prevent any financial crime risk, may discourage greater indirect access service provision.

Furthermore, we would note that indirect access is covered by Regulations 104 – 105 of the Payment Services Regulations. The FCA guidance is clear that firms don't need to offer indirect access services, but if they do they have to comply with that regulation. While this regulation is intended to promote indirect access, it could have the inadvertent consequence of reducing uptake in indirect service provision for the reasons set out in our response to question 5 above. Direct participants which do not currently offer indirect access may be wary of doing so given the regulatory oversight in this area.

7. *What do you think industry, regulators and government should do in order to remove these barriers?*

While direct access should be available to all parties that can meet the minimum requirements, Barclays considers that indirect access is likely sufficient to enable the vast majority of payment and e-money institutions to innovate and provide services, and increase choice for customers. Indirect access provides PSPs with the functionality to innovate and introduce new propositions to market, but avoids the challenges that direct access involves. Banks offer indirect access to PSPs at reasonable conditions in a competitive marketplace. There should be greater focus on making it easier for banks to support PSPs to access schemes with limited liability, and to enable a cost efficient service to PSPs. This would ideally serve to increase the number of service providers offering indirect access to PSPs, driving competition across the market. As noted, currently a considerable burden is placed on indirect access providers which may be a reason for the low number of service providers offering indirect access.

UK payment systems that are stable, reliable and efficient

8. *To what extent do you consider the government's objective for UK payment systems that are stable, reliable and efficient has been met?*

While there have been occasional payment system outages over recent years, Barclays considers that payment systems in the UK have predominantly proved to be resilient. However, innovation, regulatory intervention and competition are driving new and different ways of delivering payments – both in terms of the direct interfaces for customers and the supporting schemes, and in the componentry that helps deliver this. Such changes are welcome, and are helping the UK retain its position as a world leader in payments. However, they are also leading to payments chains becoming more 'fragmented' (i.e. a greater number of players are involved) and opaque. Whilst this is not necessarily an issue when all is well, it does introduce the potential for greater resiliency concerns, which require careful focus from both industry and regulators.

The recent experience with Wirecard demonstrates the potential impact that a failure of one linkage (including suppliers) in the chain can have. More broadly, it also highlights that the regulatory perimeter needs to reflect all those entities that could have an impact on the ultimate customer or business outcome – not just those at the 'front end'. Furthermore, as the potential for technology players to play an increasing role in delivering such services increases, we believe it also right that Government and regulators consider the potential concentration risk that such developments could have.

The payments industry is dynamic, with participants continually undertaking significant change to improve services for users, respond to opportunities and adapt to consumer behaviour changes. Due to the complexity of the payments ecosystem, and the platforms that support payments, there are risks that unforeseen issues can occur that could impact the broader system. Previous service outages of payment systems and financial institutions have demonstrated the critical impact they can have on the economy.

We would note the positive influence of the Bank of England in its role formally supervising certain payment systems from a financial stability perspective under its financial market infrastructure supervision framework.

9. *What do you think industry, regulators and government should do in order to further ensure UK payment systems that are stable, reliable and efficient?*

As we set out in our response to Question 8, we believe that one area that could benefit from further regulatory and Government attention is the extent to which innovation and fragmentation in payments chains (or "unbundling") can potentially introduce vulnerabilities into the payment systems. It could be beneficial for consideration to be given as to the exact nature of such risks, and how these can be mitigated.

Looking forward, Barclays notes the potential introduction of new types of payment including crypto-assets such as stablecoins, and central bank digital currencies. Should these concepts gain traction as viable payment networks or payment methods, it is important that they are appropriately understood, and that authorities have the regulatory flexibility and remit to ensure continued stability and resilience of the payment systems in the UK. Furthermore, we believe that it would be beneficial for Government and regulators to consider the extent to which the approach to regulation in the payments system is sufficiently focused on outcomes, as opposed to legacy market structures.

A key element of ensuring stability and resilience of the payment systems and financial institutions is ensuring lessons from previous service outages are appropriately taken on board, and best practices are appropriately shared across the industry. Barclays supports the regulators' ongoing crisis management exercises simulating service outages to test and improve the response of the network.

Opportunities and Risks

New Payments Architecture and Faster Payments

10. *What is the impact of not having comprehensive scheme rules to deal with how participants should collectively act to resolve disputes and assign liability when a Faster Payment goes wrong?*

Barclays notes that for certain instances of a Faster Payment 'going wrong', the Faster Payment Scheme has processes and rules in place to resolve the problem, supported by legislation. For example, the issue of misdirected payments is covered by the Payment Services Regulations, and will likely improve with the implementation of Confirmation of Payee (CoP) - indeed early indications from CoP are that, since its introduction, 'fat finger' misdirected payments have reduced. Barclays would suggest that there are adequate processes in place to protect against misdirected payments.

However, there are other instances of Faster Payments 'going wrong' where the FPS scheme does lack appropriate rules to resolve the problem; specifically, Authorised Push Payment (APP) scams, and purchase disputes / merchant insolvencies (although we note that in these cases the Faster Payment has not strictly speaking gone wrong – the consumer has either been a victim of fraud, or a commercial dispute has occurred). These instances are explored further below.

<u>Authorised Push Payment (APP) Scams</u>

Barclays believes that additional protections are required for FPS payments to guarantee the protections against scams that are currently offered voluntarily by some firms through the CRM Code. However, we believe that such protections cannot be delivered through scheme rules directly, and that they can only be achieved through the introduction of a statutory or regulatory underpinning (which may in turn be implemented through scheme rules).

We therefore strongly believe that Government and/or regulators should act to make the CRM Code mandatory. This would have the effect of providing guaranteed protections for consumers and businesses in the event that they fall victim to an APP scam (as long as they took reasonable self-protection steps).

The current situation, whereby such protections are offered voluntarily by only a number of payments providers, lacks universal coverage (meaning many consumers miss out on the protections offered) and is liable to being withdrawn. Incorporating such requirements via a regulatory or legislative underpinning, then potentially implementing within scheme rules, would resolve this situation, providing customers with much needed certainty. We would note that industry proposed the introduction of provisions in the FPS scheme rules to support one aspect of CRM (the so-called 'no blame' cases) last year, but this was rejected by Pay.UK. As such, we are clear that, in order to bring about such a change, Pay.UK will require direction from either Government or regulators; a move Barclays would strongly support.

Furthermore, it is important that any rule change/legislation cannot just bind the direct participants in FPS. It should also cover agency banks/larger PSPs who provide equivalent services. We believe it is already within the PSR's existing powers to do this, and that it therefore would not require primary legislation, making it a practical recommendation to implement.

<u>Wider Scams Ecosystem</u>

More broadly, we note that fraud and scams take place in a complex ecosystem involving many different sectors and types of organisations, as well as customers and economic criminals. These criminals are particularly adept at expanding the ecosystem to suit their crimes, taking advantage of weaknesses in firms of a variety of types, sizes and natures. Whereas in recent decades, scams may have taken place through fake advertisements in newspapers, or through door-to-door approaches, the vast majority of attempts to engage unwitting customers are now via the exploitation of weaknesses on online platforms (whether social media, online sales, dating websites, or a variety of other types of organisations). Whilst there may nearly always be banks as the last element in the 'scam chain', before customers reach this point they will nearly always have been engaging with the economic criminal through at least one, and often a variety, of different platforms.

We therefore believe that, if the goal of Government, Regulators and firms (across all sectors) is truly to reduce the prevalence of scams (not just to ensure customers' financial losses are minimised), then all of those who are part of this ecosystem (and whom are a 'link' in the scam chain) must have clear responsibility for minimising the extent to which economic criminals are able to operate on their platforms. Further, if firms do not act to meet this responsibility, then we believe that policy makers should act to make such firms responsible for any losses that customers incur as a result of their lack of action.

This means that, unlike the situation today, where retail banks are liable for the losses of customers in situations where it has been agreed that there is nothing more that they could have reasonably done (so called 'no blame' cases – despite the blame necessarily lying elsewhere in the ecosystem), such financial liability should be placed on responsible organisations, regardless of which sector they are a part of. This would mean that banks continue to reimburse customers for scams where the bank has been negligent ('bank blame' cases, in CRM parlance), but where another firm in another sector is responsible, they should be liable for reimbursing customers.

Importantly, it should be stressed that this is not about attempting to move cost from one sector to another. A world in which all customers are reimbursed for scam losses would, all other things being equal, be an improvement over today from a customer perspective, however it would still mean that the same volume of scams were occurring, and that therefore the same value of funds continued to flow to economic criminals, funding a variety of social ills (nor would it help prevent customers from the emotional distress that so often accompanies scams). The placing of such liability on the sectors where responsibility sits would, at heart, be about creating the right incentives in the market for firms that house vulnerabilities to act to close them down. The ideal outcome that we should strive for would therefore be one where no sector is paying out to reimburse customers, before all organisations have taken the necessary steps to prevent the scams from occurring.

As a practical first step, we therefore believe that Government should act to require all relevant organisations (i.e. those where there is evidence today that shows that scams are taking place on their platforms, including the tech, social media, dating websites and online sales platforms, and others) to share information with a central entity relating to the extent to which economic crime activity is facilitated through their platforms. Government should then review such data and determine the extent to which other sectors are playing an enabling role in economic crime. Based upon this, Government can then determine the formal responsibilities of these sectors in both prevention and reimbursement. The routine collective and publication of such data would be beneficial to Government in a range of circumstances, and we believe could easily be included as a requirement in the forthcoming Online Harms Bill.

As a further practical step, we believe that in order to build upon the voluntary work currently being undertaken between the retail banking and telecommunications sectors (e.g. through UK Finance, and Stop Scams UK), Government should play a role as a convenor to bring in the broader sectors who are also part of the scams ecosystem to help play a collaborative part of stopping scams at source, to ensure that all those who – unwittingly or not – enable scams to take place, play a role in combatting them. We note that a range of wider (i.e. non-banking and telecommunications) organisations have been approached to join such work – Stop Scams specifically – but thus far have declined to participate. As such, we believe that it is unfortunately necessary for Government to support in ensuring that such organisations play their rightful part in helping policymakers and wider industry understand the scale of the broader scams challenge, and to play a part in combatting it.

Such steps would helpfully contribute to providing a richer and deeper understanding of the complex nature of the scams ecosystem. We believe that this should then be supplemented by a third action from Government, namely to convene a taskforce that includes as its specific remit both the detailed understanding of the scams ecosystem, but also the devising of policy responses designed to combat the economic criminals responsible. This taskforce would include representatives from all relevant sectors, alongside consumer representatives, policy makers and regulators – in much the same model as is currently being led by the FCA and PSR with respect to Access to Cash.

Taken together, we believe that these actions will result in meaningful changes in the behaviour of firms that reduce economic criminals' abilities to perpetrate scams, stopping the flow of funds to criminals. And more importantly, it will mean that consumers across the country will be more confident that in purchasing a new item, booking a holiday, making an investment, or seeking a new partner that they are not going to be falling into the hands of a criminal. Barclays stands ready to work with Government, Regulators and other sectors in making this a reality, and would welcome a conversation with officials on how we can support these initiatives.

<u>Purchase Disputes / Merchant Insolvency</u>

In the event that a supplier dispute or merchant insolvency occurs where a payment has been made by card, the consumer would be covered by chargeback or Section 75 protections. Under the FPS, there are currently no equivalent provisions to protect consumers in these situations, and there is no inherent economic model built into the system, similar to interchange, to support them. At the moment, the FPS is not primarily used by consumers to make payments to merchants for goods and services. However, it is anticipated that the FPS will increasingly be used for consumer-to-merchant payments over the medium term as 'pay by bank' and PIS propositions grow, which could lead to greater numbers of purchase disputes and potentially consumer harm.

We further explore the issue of consumer protections for consumer-to-business FPS payments, and PIS payments in the following questions.

11. *Are additional scheme rules needed to ensure opportunities for person-to-business payments over the system can effectively compete with major card schemes? If so, how could scheme rules achieve this?*

Barclays does not believe any scheme rule changes are currently required to the FPS to enable consumer-to-merchant payments to compete with card schemes.

As per our response to Question 13 regarding consumer protections and PIS payments, we believe consumer understanding of the protections they receive with different payment methods is critical. An educated consumer base making informed choices will likely drive the competitive market to develop its own consumer protections for consumer-to-merchant payments.

However, policymakers should continue to monitor the consumer-to-merchant payments landscape, and should it become clear that the market has not developed to appropriately protect consumers, and consumers are at risk, policymakers should consider whether further action is required.

12. *Why are payments with a longer clearing cycle still used and what are the barriers to moving these payments to a platform with faster clearing, e.g. Faster Payments?*

Payments with a longer clearing cycle are still used in various instances, for example salary payments made in bulk by a business. With payments such as these, additional security may be required, and immediacy of the payments is less of requirement. A business knows when a salary is due, and the Government knows when a pension payment is due, so the longer cycle is largely irrelevant.

From a commercial perspective, it is worth noting the relative cost of different payment methods. The central costs of a Bacs payment are lower than a FPS payment (or a CHAPS payment). Similarly, bank overheads and liquidity costs for Bacs are lower. Furthermore, some treasury functions are set up to use Bacs and changing to a different system would be a significant endeavour when there is little urgency to do so.

However, it is worth noting that businesses are actually increasingly using the FPS for payments. In 2012, 3% of outgoing payments made by businesses used FPS. By 2018, this rose to 20%, however this growth appears to be substitution from cash and cheque rather than from Bacs.

Barclays does not believe this is an area where policymaker should be focussing their efforts.

Open Banking

13. *What is required to enable Payments Initiation Services to take off in the UK in a way which is safe and secure for the consumer?*

Barclays believes the introduction of PIS payments is a positive development in the UK payment market that will drive competition and innovation, and provide significant benefits to consumers and merchants. While PIS payments are at a relative early stage of development in the UK, the market has seen a significant uptake of PIS in recent months, with an ever-increasing number of providers (both fintechs and traditional payment services firms) offering PIS payments propositions. This trend is likely to continue as more and more providers develop new innovative and competitive PIS propositions.

When considering what may be required to increase the uptake of PIS payments in the UK, it is important to consider the respective incentives and disincentives for merchants to offer PIS-enabled payments to their customers, and for consumers to use PIS-enabled payments in addition to the current card framework. For merchants, a likely incentive to offer PIS payments may be the prospect of lower costs than those currently incurred through the card framework. A potential disincentive may be the relatively low level of use currently among consumers, albeit we agree with the CMA's assessment in its decision on the Visa/Plaid merger that use of PIS payments will continue to increase going forward, such that PIS-enabled payments will increasingly compete with card payments. For consumers to drive the uptake of PIS-enabled payments, it will be important for them to see the additional benefits compared to the card framework, as well as understand that they do not present additional risks.

One area that we believe presents an additional risk to consumers, and therefore presents a challenge to the uptake of PIS services, is the current lack of wide-spread consumer protections to protect users. Currently, there are no protections provided by legislation similar to Section 75 for credit card payments, and no formal scheme exists providing industry protection similar to charge back protection for debit cards. There is a risk therefore that consumers may use PIS payments for the benefits they offer, but may be unaware that they do not benefit from the same protections offered by the card payment framework, and could ultimately lose out financially if something 'goes wrong'.

Barclays believes it is imperative that consumers fully understand the protections they will benefit from with different payment options. We therefore believe Government and industry should undertake a comprehensive education campaign to raise consumer awareness of the different protections that exist across the payments landscape, including highlighting any protection gaps, to enable consumers to make an informed decision as to which payment methods are appropriate for them. As part of this education campaign, policymakers should remove any barriers currently preventing industry from educating consumers. Specifically, policymakers should provide clarity on the messaging banks are permitted to include as part of the customer payments journey to raise awareness and address possible consumer protection and fraud risks, as well as on banks' websites and publications, and as part of banks' marketing campaigns. An educated consumer base making informed choices will likely drive the competitive PIS market to develop its own consumer protection framework, as was the case with debit card charge back framework.

Furthermore, we believe it is crucial that government is clear, and consumers understand, that banks are not responsible for reimbursing consumers making PIS payments, should they lose out financially due to merchant insolvency or commercial dispute.

Going forward, policymakers should continue to monitor the PIS consumer protection landscape, and should it become clear that the market has not developed to appropriately protect consumers, and consumers are at risk, policymakers should consider whether a more formal consumer protection framework is required for PISPs.

Finally, in the event that a customer experiences any issue with, or following, a PIS payment, it is important that PISPs have in place appropriate operational channels for consumers to raise and resolve those issues with the PISP directly, rather than having to resort to engaging their bank.

14. *How does the advent of Payment Initiation Services through Open Banking interact with your answer as to whether additional rules are needed as part of Faster Payments?*

Barclays does not believe any scheme rule changes are required to the FPS to introduce consumer protections for PIS payments using the FPS rails. Barclays perspective and recommendations regarding PISPs and consumer protections are provided in our response to question 13.

15. *Will Open Banking deliver (and go beyond) the developments in account-to-account payments seen internationally? What are the lessons from international experiences that should be adopted in the UK, and what are the costs and benefits of doing so?*

Barclays believes the UK is at the forefront of Open Banking globally - we therefore believe that the UK will likely take a leadership role rather than implementing developments seen internationally. That said, many PSPs operate internationally so it can be expected that if something works internationally, it will likely be introduced in the UK in due course.

As noted in our response to Question 13, there has been a significant uptake of PIS in recent months, with an ever-increasing number of PIS providers offering new services and more choice to consumers, with no restrictions on how PIS can be used for online transactions. This trend is likely to continue the more third party providers develop innovative and competitive PIS solutions.

However, with the Open Banking ecosystem now fully-established, Open Banking propositions should be left to develop organically according to market demand, as is the case with other financial services. Given the breadth of propositions to date, we anticipate that the market will continue growing at an exponential rate, with ever more innovative solutions The UK has a vibrant Fintech community – if there is a market demand for a particular proposition, then it will be developed over time by the Fintech or bank industry.

New Payments Services and Payments Chains

16. *Do you agree with the trends in new service providers and payments chains identified?*

Barclays agrees with the trends identified in the consultation document – specifically new service providers entering the market and the unbundling of payment chains.

As further context, over the past decade the payments sector has evolved rapidly due to various drivers of change:

- Changes in consumer preferences – consumers' increasingly looking for convenience and swift delivery of their needs e.g. both contactless and mobile payments continue to grow in popularity, in favour of cash which continues to decline in use;
- Technological developments – innovative new technologies are transforming how consumers make payments, both with traditional providers but also with new players in the market.
- Regulation – new legislation and regulatory changes intended to open access to payment services, facilitate faster payments, and promote greater choice for consumers.

17. What further trends do you expect to see in payments chains in the next 10 years?

Looking ahead, technologies such as distributed ledgers/blockchain, smart contracts, AI, and biometrics have the potential to further transform the UK payment sector. These technologies may help speed up payment processing times, generate cost savings and may further impact the structure of the sector.

By way of an example, the ex- Governor of the Bank of England stated that settlement systems using DLT "could overhaul how markets operate. Industry consortia, such as Utility Settlement Coin, propose to issue digital tokens that are fully backed by central bank money, allowing instant settlement. This could also plug into 'tokenised assets' – conventional securities also represented on blockchain—and smart contracts. This can drive efficiency and resilience in operational processes and reduce counterparty risks in the system, unlocking billions of pounds in capital and liquidity that can be put to more productive uses".

The concept of 'programmable money' is also promising development that could develop over the medium term. Potential use cases of programmable money could include:

- payments being integrated with appliances at home or tills at the shops.
- tax payments being routed to Government tax collection departments at the point of sale.
- electricity meters paying suppliers directly, based on the amount of power used
- shares automatically paying dividends directly to shareholders.

We also expect payment chains may change in future with the introduction of stablecoins and central bank digital currencies. Some advocates view these 'assets' as the future for payments due to their potential for financial inclusion and potential reduction in financial crime, by linking payments to identity. However, critics have concerns particularly in the case of global stablecoins from a monetary sovereignty and financial stability (in the case of global stablecoins) standpoint. Whilst increased competition in the payments landscape is positive, it is important policymakers fully understand the potential impacts these developments may have on the financial sector and payment chains.

It also worth noting that certain industry initiatives are focused on evolution rather than revolution in modernising international payments. As an example, SWIFTgpi has only recently been launched but has the potential to improve international payments for consumers and SMEs.

18. What opportunities and/or risks do these trends in new service providers and payments chains pose?

As recognised in the consultation document, the payments landscape is evolving, with new types of firm e.g. fintechs and increasingly BigTechs, engaging in payments and broader financial services activity. While these new players help drive competition and innovation in the market, they also introduce new risks to the system.

<u>Consumer Prudential Protections</u>

While these new players in the market are operating under specific, single-activity licenses as Electronic Money Institutions (EMIs) or authorised payments institutions, some products provided by these firms are increasingly being used by consumers as day to day current accounts, in the same way as those provided by regulated credit institutions. This creates risks for consumers as EMIs are not subject to the same obligations as fully regulated credit institutions, meaning their prudential frameworks do not provide the same level of protection. For example, EMIs can be very lightly capitalised placing the firm at greater risk of collapse, and whilst EMIs may have safeguarding obligations over consumer funds, consumers do not benefit from deposit guarantee schemes under the Deposit Guarantee Scheme Directive (implemented through FSCS in the UK). While some firms may provide protection, these are not guaranteed or underwritten by legislation or regulation.

It is important to ensure that as new players enter the market under different regulatory regimes, customers do not lose out in terms of the protections they receive. It may become increasingly difficult for consumers to understand the protections attached to products provided by different entities. There is a risk that they choose a product from an EMI seeing it as equivalent to one provided by a credit institution, without realising the protections they receive are lower. This is bad customer outcome, and area policymaker should consider going forward.

Given the increased prominence of electronic money and EMIs in the payments landscape, Barclays urge policymakers to review the regulatory framework following the principle of 'same activity, same risk, same rules'. See Question 20 for further discussion.

<u>Reduced Choice for Some Consumer Segments</u>

With newer entrants opting for 'digital only' business models, digitally excluded consumer segments may not benefit from new innovative products entering the market. This raises questions of fairness, as some consumers will have fewer choices and may end up with worse deals as a result. Barclays believes that all of society need to be cognisant of digital inclusion and the entire industry should be required to play a role to ensure that all consumers can participate in the digital economy.

<u>Platforms</u>

Digital platforms (often associated with BigTechs) are blurring the traditional boundaries between different markets and industries. They are redefining the digital economy and the traditional relationship between regulated financial service providers (banks, insurers, asset managers etc.) and end-users. Regardless of the principal activity of the platform (whether social media, e-commerce, internet search or product platform), given financial services underpin much of the activity undertaken on the platform, the provision of financial services by the platform is a logical evolution to complement their existing offering.

This expansion of digital platforms into financial service provision (so-called non-bank finance) has the potential to create its own set of regulatory challenges that policymakers may need to consider:

- **Operational resilience -** In many cases platforms are becoming the sole digital aggregators and distributors of financial products and services, however they are not subject to the same level of operational and IT stability requirements as existing financial institutions. In the event of operational instability, there may be issues with platform access which could become material in circumstances where the consumer interface is "owned" by the ecosystem platform and there is a lack of any direct relationship between the end consumer and financial product manufacturer.

- **Prudential and financial stability risks -** There are substantial differences with respect to the prudential and consumer protection regulatory requirements applicable to systemically important banks and systemically important digital platforms providing similar services. There is a danger that the emerging risks posed by significant market changes in the wider digital ecosystem will not be recognised by a perimeter-defined approach to regulation. Where digital platforms become systemically important to the digital economy this may create concentration risks and single point of failure risks should unforeseen events occur. Despite the significant impact the collapse (or cessation of operation) of a platform could have on users whose operations have become dependent on the platform, there are no prudential, liquidity or operational continuity requirements in place for such platforms equivalent to other systemically important operators.

19. *What do you think industry, regulators and government should do in order to realise these opportunities and/or address these risks?*

Please see response to Q20.

20. *Do you think any changes are needed to payments regulation to ensure it keeps pace with the changing technological landscape?*

It is important that payments regulation keeps pace with the changes taking place across the payments landscape.

Banks and the payments system covered by regulation are only a subset of entities involved in the payments chain. As payments chains become increasingly fragmented and opaque, there is a danger that small or hidden players become key and necessary linkages; should these linkages fail, there is potential for significant disruption. Wirecard provides an example of a regulatory framework failing to provide appropriate oversight over a technology firm engaging in the financial services space. It is vital the regulatory perimeter provides regulators with appropriate oversight across all of the payments ecosystems and includes protections and provisions to avoid any vulnerabilities. Government should consider whether the current regulatory perimeter remains appropriate, or whether it should be widened to cover any parties currently outside the perimeter.

Regarding the entry of new types of firm into the financial services market, Barclays strongly believe that market participants offering effectively the same service or product should be regulated by rules that are truly activity-based and conceived according to the risks that the specific activities produce – in particular for end-users. In other words, policymakers should look to follow the principle of 'same activity, same risks, same regulation'. That is, departing from the traditional institutions-based framework, the same regulations should apply to activities regardless of whether they are undertaken by an incumbent financial institution, a large technology firm, or a start-up (whether or not controlled by a financial institution). This principle should apply to all types of rules, including prudential rules, organisational requirements and conduct rules. The similarity of the relevant activity should be considered by taking a functional view of its effect, for instance in terms of consumer risk and, therefore, the standards of protection needed. The same activities can still be subject to differing regulatory obligations where they do not entail the same risks, whether individually or in combination.

Regarding the increasing role of platforms in financial services, Barclays considers that the current regulatory framework was developed to meet the challenges of a traditional financial services sector with rules based on product and entities. As a result, the regulatory perimeter is narrow, designed to capture traditional financial services firms. However, a digital platform company does not need to create the underlying financial services product or service to become a leading digital aggregator and distributor of those products and services. There is a significant risk that the current, narrow, industry-defined approach to regulation will fail to recognise and respond to the emerging risks posed by the market changes noted in Q18. A such we believe the approach to financial services regulation must be recalibrated to be industry and business model neutral, to ensure any firm engaging in, or impacting, financial services can be appropriately overseen and regulated by the regulator. Failure to do so risks: the remit and impact of the Regulator's sphere of influence shrinking because of regulatory arbitrage or perimeter surfing; and regulations applying inequitably between those within the financial/banking perimeter and those outside it.

Cross-Border Payments

21. *What further trends do you expect to see in cross-border payments in the next 10 years?*

Whilst the majority of the HMT commentary relates to payments out, rather than in, there are a number of expected trends across payments flowing in both directions:

- Speed – it is expected that payments will continue to be made at a faster pace, with the quicker movement of funds both in and out. This is expected to include refunds which historically take longer than payments however this is considered to be unsustainable moving forwards
- Exchange rates and fees – further transparency is expected to be key for consumers to enable them to make a choice with regards to payment methods based on speed and cost
- Consumer protection – This is expected to remain a key point given increased consumer awareness will be a factor in deciding payment methods.

22. *What do you think industry, regulators and government should do in order to improve the functioning, speed and cost of cross-border payments for consumers taking into account the G20 work?*

Barclays supports initiatives that seek to drive standardisation in payments within and across regions, remove friction, and facilitate international payments for consumers and businesses.

While there may still be room for improvement, Barclays would suggest that international payments are not currently unacceptably slow. Looking at SWIFT gpi statistics, the majority of payments are being processed very quickly and this will only improve over time as more banks participate in SWIFTgpi. While we do not necessarily believe participation in SWIFT gpi should be mandated, we believe greater participation would help reduce costs and increase speed of cross border payments. We also expect initiatives such as ISO20022 to help reduce the overall cost of international payments. We would also note that there are new market entrants which focus specifically on international payments or on facilitating cheaper and quicker international payments. Competition and innovation in the sector will help drive down prices and speed up transfer times.

Given there are a number of industry initiatives seeking to improve cross-border payments, we believe policymakers should wait to see how the landscape evolves before considering further changes.

23. *Are there other opportunities and risks not captured by the questions elsewhere that you wish to highlight? If so, what do you believe the role is for government, regulators, and industry in responding to them?*

As set out previously in this response, Policymakers have an important role to play in removing barriers to growth, facilitating innovation and enabling innovative payments methods to succeed. Actual development of innovative payment services should then be driven by industry, with the market offering a range of payment solutions, and merchants and users determining which they wish to use based on their specific needs and preferences.

However, we would note that there are limits to which the industry can collaborate, and different economic incentives exist for different market participants. Government and regulators should be prepared to intervene where industry is unable to deliver, consumer protection gaps exist, or when industry call for such intervention.