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Financial Regulation Legal Outlook 2025

Payments

Payments: contents

01 National Payments Vision

A North Star for UK payments

The government has used its National Payments Vision to signal the destination for UK payments. The challenge now is for HM Treasury to work with the industry and regulators to chart a course to get there.

Mapping the route

Joe Garner laid down the gauntlet. His 2023 independent report for HMT on the future of payments found there was no agreed vision about the 'end-state' for the payments landscape. The report called on the government to articulate its vision so that the payments industry and regulators can prioritise accordingly.

The trajectory has now been set. In its Vision the government articulates the desired end-state as "a trusted, world-leading payments ecosystem delivered on next generation technology, where consumers and businesses have a choice of payment methods to meet their needs". This ecosystem is to be underpinned by resilient infrastructure and the regulatory framework. Future activity to deliver the vision will be guided by three priorities: driving innovation, facilitating competition and ensuring security.

In short, the National Payments Vision aims to:

> Update payments infrastructure.

> Reduce regulatory overlaps.

> Unlock Open Banking.

> Protect against fraud.

Future engineering works

To deliver the Vision, upgrading the UK's retail payments rails is essential. In 2025 a new Payments Vision Delivery Committee will clarify what upgrades are required to the Faster Payments System and what is needed to deliver them. Reform to Pay.UK's funding and governance arrangements is likely.

Infrastructure change lays the foundations for other initiatives. HMT has told the Financial Conduct Authority and Payment Systems Regulator to address congestion in the regulatory landscape, support the development of Open Banking, ensure high standards of consumer protection, and drive a flexible approach to delivering retail payments infrastructure.

Expect the FCA to take a more prominent lead on payments-related matters. For example, the FCA will be given the reins to drive forward Open Banking under the Data (Use and Access) Bill, which should be finalised by the summer. Completing phase 1 work on variable recurring payments will be just the start; the government wants to leverage Open Banking to unlock account-to-account payments for e-commerce.

Tackling fraud is another priority. The FCA has been told to address overlaps with the PSR in relation to fraud policy. Also, in 2025 the PSR will commission an independent review of its authorised push payment reimbursement regime.

Some things are conspicuous by their absence. The National Payments Vision does not refer to HMT's 2023 call for evidence on the Payment Services Regulations. This paper mooted, for example, clarifying the scope of regulated activities under the PSRs and combining them with the E-Money Regulations.

Going for growth

In the spring the government will release a cross-sectoral Financial Services Growth and Competitiveness Strategy. Fintech has been identified as one of five priority growth opportunities. The regulatory environment will be one of the key pillars of this strategy, with the government arguing that it is possible to maintain high standards while also minimising the compliance burden for firms.

The FCA will reset its own strategy in 2025. Its previous three-year strategy focused on reducing and preventing serious harm, setting and testing higher standards, and promoting competition and positive change.

A parallel journey in the EU

Change is also on the horizon in the EU. In 2025 the co-legislators – the European Commission, Parliament and Council – will kick off trilogue negotiations on the revised Payment Services Directive (PSD3) and new Payment Services Regulation (PSR1). Key areas to be discussed include new transparency requirements and fraud prevention rules.

Technical service providers who are exempt from PSD2 are also being partially brought in scope of PSR1. The finer details will be thrashed out in the trilogue talks but it is looking likely that there will be some form of liability imposed on TSPs for failure to provide strong customer authentication services and potential contractual requirements.

Learn more

> Eye on the horizon: UK sets National Payments Vision

> PSD3: Draft legislation points to future for payments in the EU

Rewriting the UK safeguarding regime

The FCA has long-standing concerns about standards of compliance for how payment firms handle money on behalf of their customers. In 2025 it will introduce new rules which will have a significant impact on some firms' payment flows and business models.

FCA consultation

The FCA wants to improve compliance standards. In CP24/20 it proposes interim rules that will overlay existing safeguarding requirements in the Payment Services Regulations. These rules are due to take effect from autumn 2025. It also proposes end-state rules that will replace that legislation in due course.

In the interim

The interim rules are an evolution rather than a revolution. In the main the FCA has taken existing guidance for payment firms and turned it into new rules in the FCA's client assets sourcebook (CASS). Under these interim state proposals, payment and e-money firms would have to, for example:

- Perform internal / external reconciliations and investigate discrepancies.
- Maintain resolution packs.
- Subject their safeguarding compliance to external audits.
- Submit a monthly safeguarding regulatory return to the FCA.
- Consider diversifying safeguarded account providers.

These requirements present new regulatory risks for firms. The rules are more detailed than the existing guidance (see, for example, the new standards to meet when selecting and appointing third parties). Other requirements represent new policy, such as the requirement to assign a director as a point person for safeguarding compliance.

In the end

More fundamental change will follow. The FCA plans to work with HMT to repeal the safeguarding parts of the PSRs and EMRs and replace them with a more prescriptive regime. Under this future regime, payment and e-money firms will hold customer money on trust and that money must be received directly into a designated safeguarding account.

The consultation raises many questions. Imposing a trust structure would change the relationship firms have with their customers but the extent and impact of owing fiduciary duties is not fully clear. What is clear is that, as drafted, the rules would require firms to reassess their payment flows, regulatory permissions, record-keeping processes and all their policies and procedures relating to safeguarding.

More consultations to come

The FCA plans to finalise the interim safeguarding rules in the first half of 2025. Payment firms would have to start reviewing their use of third parties for safeguarding purposes within three months. The other interim rules would apply six months after the rules are finalised, i.e. before the end of 2025.

The timing of the end-state rules is subject to HMT's timetable for revoking the safeguarding requirements in the EMRs and PSRs. Once this happens, the FCA suggests giving payments firms a 12-month transition before switching to its new regime.

In the meantime, the FCA plans to consult on other aspects of the future regime. Upcoming consultations will cover the rules relating to failure of a safeguarding institution or a third party used for safeguarding purposes, and the rules relating to investing relevant funds in secure, liquid assets.

Changes to the EU safeguarding regime

The EU is also going to change its safeguarding requirements. The PSD3 proposals tweak the current regime under PSD2 and the E-Money Directive.

There are points of comparison with the UK. For example, EU payment institutions would be required to manage concentration risk by not depositing all funds with one bank. Firms would also be required to notify their regulator before making any material changes to their safeguarding processes.

Overall, the UK proposals go much further than the EU's. Responses to CP24/20, which was published before the National Payments Vision, are likely to highlight the competitive disadvantage that UK payment firms may face under the proposed regime relative to their global counterparts.

Learn more

- [Payments and e-money firms face tougher safeguarding rules]
- [How will changes to safeguarding rules impact payments firms?]
- [How the FCA's proposed safeguarding rules could re-shape the UK payments industry]

Tackling authorised push payment scams

Recent data suggests that fraud in the UK is starting to reduce. Even so, in 2025 hundreds of millions of pounds will be lost through authorised push payment fraud, especially as criminals take advantage of better and cheaper technology.

Reviewing reimbursement

APP fraud continues to dominate the agenda. Scammers trick people into instructing their payment service provider to send funds to an account controlled by the fraudster. A particularly difficult crime to detect and prevent, PSPs have taken on the brunt of the liability for reimbursing victims of these scams in the UK.

The PSR has moved the payments industry from a voluntary reimbursement code to a mandatory model. As of 7 October 2024, PSPs must reimburse victims of APP fraud in Faster Payments and CHAPS. Only limited exceptions apply, such as where the PSP can demonstrate that the consumer was grossly negligent in ignoring interventions made by their PSP.

The introduction of the policy was not entirely smooth sailing. For example, the PSR cut the liability limit from £415k to £85k shortly before the rule kicked in. Even with the lower cap, 99% of APP claims in 2023 would have been covered.

The policy will be tested in 2025. The PSR plans a review of its policy, including the maximum reimbursement level, once the regime has been in place for a year. The outcome of this post-implementation review is expected in 2026.

Push-and-pull

In the meantime, calls will grow for others to contribute more. The PSR has promised to release data on the origins of APP scams. The UK government – which plans to release an expanded Fraud Strategy in 2025 – has called on players in the tech and telecoms sectors to give an update at the next Joint Fraud Taskforce in March 2025 on how they are reducing fraud taking place on their platforms and networks.

Comparable rules may emerge from the EU's trilogue talks on PSD3. The Commission has suggested that EU PSPs should compensate victims of employee impersonation fraud. The Parliament seeks to hold online platforms liable where fraud arises via their platform after they were informed about fraudulent content on their platform but did not remove it.

Slower payments

In 2025 the FCA will assess how firms are using new powers to slow down some payments. Recent changes to the PSRs enable PSPs to delay payments by up to four business days where they have reasonable grounds to suspect fraud or dishonesty. FCA guidance indicates when and how PSPs should use the payment delay window.

Firms should use data to track trends. The FCA wants PSPs to monitor things like the proportion of payments that are delayed, the length of payment delays and the overall volumes and values of delayed payments. Firms should also consider their obligations under the Consumer Duty, such as the level of support they give to customers when a payment is delayed.

Strong customer authentication

PSD2 introduced strong customer authentication (SCA) rules to tackle remote payments fraud. Their original implementation proved challenging. Now both the UK and EU plan to take their respective regimes in different directions.

Outcomes-based regime

In the UK, the new government has reiterated the previous government's intention to replace the UK SCA regime with a more outcomes-based approach. Reform of the PSRs is a current priority in HMT's programme to create a smarter regulatory framework for the UK. Expect HMT to propose revoking the SCA rules in the PSRs and allowing the FCA to replace the SCA technical standards with an outcomes-based regime, perhaps one that leverages the Consumer Duty.

Transaction monitoring

The EU plans to move PSD2's SCA rules into PSR1. Notable changes include requiring PSPs to use transaction monitoring mechanisms to track people's payments habits. This information can then be used to support inherence for SCA. Firms will also be required to meet new accessibility requirements. All customers must be given means to perform SCA, including people with disabilities and those who do not have a smartphone.

Another idea on the table in the trilogue talks is to allow firms to use SCA factors from the same category, provided that the independence of the factors is preserved. If agreed, this could make SCA a lot more flexible in future.

Learn more

> UK plans to slow down payments where fraud is suspected

> FCA encourages boards to question what they do to tackle financial crime

Full steam ahead

The Consumer Duty is the FCA's flagship consumer protection regime. The payments sector will need to batten down the hatches to prepare for enhanced supervisory activity in 2025.

All hands on deck

2024 saw the Duty become fully operational. Firms also submitted their first annual board reports. Recent FCA feedback on those reports picks out five areas for improvement including issues with data quality and evidencing the contents of the report, as well as demonstrating adequate consideration and challenge.

The FCA is looking to leverage the Duty further. In Q1 2025 it will respond to a Call for Input that asked stakeholders to suggest areas of current regulation that could be removed or revised in favour of greater reliance on Duty 'outcomes'. The paper proceeds on the (untested) assumption that outcomes simplify regulation whereas there is considerable ambiguity surrounding many aspects of the Duty, which the FCA has sought to manage by publishing a proliferation of guidance and feedback.

A shot across the bows

Not enough payment firms are shipshape, according to the FCA. Its review of compliance with the Duty in the payments sector found that just over half of the firms surveyed demonstrated satisfactory compliance with the Duty. The FCA will use its supervisory powers where it feels firms are not complying with their Duty obligations.

In 2025 payment firms should:

> **Take a systematic approach to compliance:** Firms should describe their target market in sufficient detail. Deep understanding of customers is vital when offering higher risk products to guard against the risk of mis-selling and other customer harm.

> **Provide robust analysis to support value assessments:** Simply benchmarking against competitors is not enough. Frameworks need to consider all costs that consumers incur and segment for different customer types. Firms should consider whether a very high profit margin is an indication that a product is not fair value.

> **Tailor, test and monitor comms:** The FCA is concerned that some firms are conducting limited testing or using proxy measures of understanding such as email open rates.

> **Make support accessible:** Particularly where accounts are frozen, firms should ensure support staff (and not just a chatbot) are available to deal with enquiries (whilst also being mindful of their financial crime and other relevant requirements). Best practice identified by the FCA includes clear internal service level agreements on delivering support, and management information (MI) which uses complaints and data from service level agreements to identify and swiftly fix support issues.

> **Internal challenge:** Boards should consider Duty MI and challenge the approach being taken by the business. Quality MI is crucial and should be linked to consumer outcomes. As flagged in its feedback on board reports, the FCA is also looking at whether firms are monitoring the fixes for problems they have identified, to confirm that they are working.

The FCA wants to know if FX pricing in payment services is on the right tack. It has recently spelt out its focus areas for the Duty in 2025. This list includes the payments sector and specifically the extent to which firms help consumers clearly understand the price they pay for foreign exchange services. The initial focus will be on clarity of pricing in money remittance services and account-to-account transactions.

Redress makes waves

Recent activity relating to redress may require payment firms to trim their sails.

Legal developments in the motor finance sector could have a significant future impact on firms in scope of the Duty. The joint FCA/FOS Call for Input on modernising the redress framework is relevant in this context as well. The paper considers the issue of conflicting interpretations of FCA rules being taken by the FOS. This is a concern for many firms as the Duty, with its inherent ambiguity, becomes part of their day-to-day compliance.

Learn more

> Consumer Duty webpage

> Consumer Duty webinar including discussion of payment firms' review

> FCA outlines Consumer Duty areas of focus for 2024/25

> The FCA's latest consumer duty value messaging

> Key considerations when compiling your board report

> Significant Court of Appeal judgment on FCA's redress powers

> Re-dressing redress

The show must go on

Open Banking takes centre stage in the UK's National Payments Vision. The government eyes "unlocking" Open Banking as a strategic short to medium term priority. Cue changes to how it is governed and its functionality.

Governance in the limelight

The Competition and Markets Authority has brought its Open Banking roadmap to a close. The CMA first imposed Open Banking standards on the largest nine UK retail banks, requiring them to share current account information with third party providers via specially designed application programme interfaces (APIs).

In recent years, directing the future of Open Banking has been the responsibility of the Joint Regulatory Oversight Committee. Progress has, however, been slow. HMT now plans to bring down the curtain on the JROC and make the FCA the sole regulator responsible for Open Banking.

In 2025 the government will use powers under the Data (Use and Access) Bill to make Open Banking a "smart data" scheme. Finding a sustainable commercial model will be key to strike the balance between incentivising investment to support the development of Open Banking while also protecting smaller firms who rely on free access to APIs. The Open Banking smart data scheme will also include consumer protections and a dispute resolution process.

A tough act to follow

As the new Open Banking regulator, the FCA will complete phase 1 of the development of non-sweeping variable recurring payments in Open Banking. Pitched as an alternative to direct debits, phase 1 was limited in scope to bill payments in specific sectors. The next act will involve building on this to allow for commercial variable recurring payments.

The government wants to go further and deliver "seamless" account-to-account payments through Open Banking. The aim is to enable customers to use Open Banking to pay for goods and services online (technologically doable) and in person (technologically trickier) without using a card. It has tasked the FCA with exploring a commercial model for expanding e-commerce use cases.

Once Open Banking is on a sustainable regulatory footing under the Data (Use and Access) Bill, it will be used as a platform for data-sharing in relation to a wider range of products, including pensions, investments and savings.

Setting the scene for reform

The EU version of Open Banking has had mixed reviews. The Commission's proposals for the PSR1 aim to redress some of the perceived issues with the existing framework under PSD2.

The upcoming trilogue talks will determine the detail of the changes to come. For example, EU banks and other account servicing payment service providers must currently provide a dedicated interface and a fallback interface when opening data access to third parties. Based on the current draft texts, it is expected that PSR1 will remove the fallback requirement.

Some PSD3 changes will come with IT costs. For example, PSR1 looks likely to require banks to offer customers an online "dashboard" so they can manage their data access preferences for their other payment service providers. This is consistent with a similar dashboard requirement in the EU's proposals for an open finance framework.

Waiting in the wings

The EU wants to build on PSD2 to create a harmonised framework for access to financial data. The draft regulation on financial data access, known as FIDA, requires EU financial institutions – including banks, payment institutions and e-money issuers – to join data sharing schemes. These schemes will then develop common standards for sharing access to various types of customer data between regulated firms.

FIDA presents an opportunity for account information service providers. As data users under FIDA they would be eligible to receive customer data from a wider pool of regulated firms in addition to the payment account data they receive under PSD2. The draft FIDA text proposes a review clause for the Commission to examine streamlining the data-sharing rules in the two regimes.

The Commission drafted FIDA in 2023. By the end of 2024, the Parliament and Council had agreed their respective positions on the proposal. This opens the door to trilogue negotiations to begin in 2025, in parallel to talks on PSD3.

Learn more

> Design of EU open finance rules set to move to next stage

> FIDA: EU sets out ambitious plans for open finance

…Ready for it?

As one era ends, a new one begins. In 2025 payment firms will swiftly switch from implementing operational resilience rules to embedding those standards in their day-to-day activities.

Not out of the woods yet

The FCA has talked about firms' "journey" to becoming operationally resilient. For most, that journey started several years ago.

The FCA and Bank of England regimes on operational resilience have generally been in effect since March 2022. Payment institutions, e-money issuers and recognised payment systems are among the firms who have had to identify their important business services and set impact tolerance levels for those services.

Looking ahead, 31 March 2025 is a key milestone. From this date firms must remain within their impact tolerances in case of a severe but plausible disruption to their important business services. Future operational incidents and cyber-attacks will, therefore, carry additional legal and regulatory risks. In preparation for this date, firms are reassessing whether they have identified the right important business services, set appropriate impact tolerance levels and recorded how their mapping and testing processes have evolved since 2022.

Firms know all too well what can happen. July 2024, for example, saw high-profile incidents relating to CrowdStrike (a cybersecurity firm) and SWIFT (a payment messaging service). The regulators have called on the industry to learn lessons from these incidents.

The UK regulators are also consulting on new rules for operational incident and third party reporting. The rules will be finalised later in 2025 and apply in 2026. They include new requirements on payment service providers to notify the FCA of operational incidents, in addition to the existing incident reporting regime. They also suggest that firms maintain a register of third party contracts, including non-outsourcing arrangements.

The UK's critical third party regime applies as of 1 January 2025. Firms deemed to be "critical" will be designated following a six-month process and then subject to operational resilience requirements relating to their systemic activities. Payment firms may be indirectly impacted via their contractual arrangements with designated CTPs.

End game for DORA implementation

The EU's Digital Operational Resilience Act now applies. EU banks, e-money issuers and payment institutions are among the firms which must be ready to present to their regulators a package of documents evidencing their readiness to bounce back from disruption. This includes a digital operational resilience strategy, crisis communication plans and an ICT third-party risk strategy.

Work on contracts is likely to continue. Firms must reopen their contractual arrangements with ICT service providers to ensure they comply with DORA, with the most onerous obligations relating to services that support firms' critical or important functions. The EU legislators have not yet finalised their requirements for subcontracting and threat-led penetration testing. Given that these rules should be reflected in contracts, firms will need to continue engaging with third party providers on DORA.

The tortured Ops department

Payment firms will need to be ready to switch incident-reporting regimes. DORA replaces the current PSD2 provisions for reporting major incidents. From 17 January 2025 PSPs should classify and report operational or security payment-related incidents according to the DORA framework, as well as ICT-related incidents.

Another key aspect of DORA is the register of information. Firms must collate details about their contractual arrangements with ICT third party service providers and, where necessary, their subcontractors. Regulators will use firms' registers to better understand the ICT dependencies across the EU financial system.

Firms can expect to be told to share their DORA registers with their regulators by the start of April 2025. The European Supervisory Authorities will use the data in these registers to assess which ICT third party service providers should be designated as "critical" to the EU financial system. The first designations are expected in the second half of 2025.

Looking ahead, payment firms can expect more intensive supervision from their regulators about their operational resilience, including how they protect their ICT systems, detect anomalous activity, respond to cyber threats and manage third party providers.

Learn more

- Operational resilience webpage
- DORA webinar: What lawyers need to know about the DORA register
- DORA webinar: Getting your contracts DORA-ready
- What does DORA mean? A recap of new EU rules on operational resilience
- DORA: EU explores new territory with operational resilience rules

Competing or complementing?

There are several runners in the race to be the future of payments. For now, policymakers in both the UK and EU seem minded to allow a diverse landscape in which multiple payment methods can co-exist and compete.

Instant payments

The UK's National Payments Vision sees a future for account-to-account payments via Open Banking as an alternative to cards. Having been one of the first countries to establish a Faster Payments system, it now recognises that the infrastructure needs upgrading to sustain further growth and new functionality.

The EU is leveraging regulation to encourage the take-up of instant payments. Applying its "strategic autonomy" policy, the EU is eyeing home-grown systems built on existing instant payment rails as an alternative to overseas card schemes. The first obligations under the EU's Instant Payments Regulation start to apply in 2025, requiring banks in the Eurozone to set themselves up to first receive and, later in the year, send instant credit transfers in the euro at no extra cost to consumers. Other EU banks have until 2027 to comply.

Regulating stablecoins

Stablecoins are a novel form of payment instrument which bypass settlement through traditional interbank settlement systems. There is no agreed definition of stablecoin but it typically refers to some form of transferable cryptoasset which is pegged to the value of a single fiat currency. Structures can differ widely, particularly regarding the legal rights or interests given to the holder.

The UK had planned a phased approach to regulating stablecoins and other cryptoassets. First, it would have brought fiat-backed stablecoins used in UK payments chains into the scope of the PSRs. A later second phase would have applied a broader regulatory regime to a wider array of cryptoassets.

The new government has ditched this phased approach. Now it will regulate activities for stablecoins at the same time as other cryptoassets. It also no longer plans to apply UK payments regulation to stablecoin activities. The government has indicated it will consult on draft legislation "as early as possible" in 2025.

The FCA has a busy couple of years ahead, according to its crypto roadmap. In Q1 2025 it will consult on draft rules on, for example, the backing and redemption of stablecoins and custody requirements.

When it comes to cryptoasset regulation, the UK is playing catch-up with (or, depending on your point of view, benefitting from second mover advantage over) the EU's comprehensive Markets in Cryptoassets Regulation. MiCAR applies in full from 30 December 2024, subject to transitional measures.

The stablecoin rules (for asset referenced tokens and e-money tokens) are already effective but transitional measures allow existing cryptoasset service providers an extra 12-18 months to meet the new regime. In the meantime, ESMA and the EBA continue to work on the extensive technical standards and guidance that will form part of the MiCAR framework. For example, in April 2025 the EBA will opine on the interplay between PSD2 and MiCAR, specifically where CASPs provide services with EMTs.

Bank stablecoins

While stablecoins have been a feature of crypto markets for some time, there has been a recent uptick in stablecoin initiatives led by traditional banks and payment providers. Whereas MiCAR contemplates EU credit institutions issuing ARTs and EMTs, the UK has taken a different approach. The message from the UK regulators to date has been that if banks intend to issue e-money or regulated stablecoins to retail customers they should do so from a separate non-deposit-taking and insolvency-remote entity with distinct branding.

Even though UK banks may be discouraged from issuing stablecoins to retail users, the Bank of England is pushing for more innovation by commercial banks in the form of tokenised deposits (see below).

CBDC development

The Bank of England and the European Central Bank, like other central banks, continue to explore the implications of issuing a central bank digital currency in the future. On the one hand, a CBDC might reduce reliance on more risky private alternatives and provide an anchor to central bank money in digital ecosystems. On the other hand, a retail CBDC might introduce new financial stability risks by threatening the traditional role of commercial banks.

Again, differences in approach are emerging. While the ECB explores the route towards issuing a retail digital euro, the Bank of England says that it would prefer retail banks to innovate and will only issue a retail digital pound if they fail to do so, leaving the Bank as the "only game in town".

Learn more

- > UK revises crypto regulation approach and timetable
- > 2024 promises to be a landmark year for stablecoin regulation in the UK
- > EU seeks to clarify boundaries of cryptoasset regulation
- > Bank of England and Treasury respond to digital pound consultation
- > 10 key takeaways from the Bank of England's latest paper on digital cash

08 Future of wholesale settlement

Innovation in money and payments

The UK's National Payments Vision focuses on the direction of travel for retail payments but wholesale payments are also subject to change. These payments between financial institutions and the Bank of England underpin the wider payments ecosystem.

In 2025 the Bank of England will share feedback from a discussion paper in which it set out its approach to innovation in wholesale payments. The paper highlights the Bank's multi-year programme to renew its Real Time Gross Settlement (RTGS) service. This work has included introducing a new RTGS core settlement engine, implementing the ISO 20022 global messaging standard for CHAPS payments and setting a new access policy for omnibus accounts to facilitate settlement backed in central bank money for tokenised asset transactions.

The Bank will now embark on its Future Roadmap for RTGS. This roadmap will explore new features including new ways of accessing RTGS via APIs, extending RTGS operating hours and providing a synchronised settlement interface to allow RTGS to interoperate with other ledgers such as overseas RTGS.

Wholesale digital settlement solutions

The industry continues to explore different ways to achieve appropriate delivery-versus-payment, as well as payment-versus-payment, settlement solutions for digital assets. There have already been a large number of experiments with tokenised deposits and stablecoins.

The Eurosystem has been running a programme of exploratory work on new technologies for wholesale central bank money settlement, across three different platforms, which much of the industry has been engaged with. We should hear more soon on how it plans to take its findings forward.

The Bank of England is expected to begin a similar programme in 2025. We also expect to see more progress on Project Agorá, a cross-border initiative among seven central banks to explore a unified ledger, as well as the Regulated Liabilities Network, a similar industry-led project.

Stablecoins in wholesale markets

In a 2023 discussion paper the Bank of England proposed a regulatory regime for the use of stablecoins in systemic payment systems. The paper focuses on sterling-denominated stablecoins used at a systemic scale for retail payments, although no such stablecoins are used in the UK at present.

The Bank says it is still considering the responses it received in relation to this discussion paper. It has indicated, however, that it is unlikely to support the use of stablecoins for wholesale transactions, at least in the short term. It considers this to pose "significant financial stability risks" which are "an order of magnitude greater than the risks posed by retail use cases". The Bank's primary concern seems to be around the risk that unlimited access to stablecoins could facilitate bank runs in times of stress.

Meanwhile, the Bank has been working with the Bank for International Settlements to explore technology solutions that would enable regulators to monitor backing arrangements in relation to stablecoins on a near real time basis.

Cryptoasset exposures

Another consideration is whether any given digital settlement asset falls within the scope of the Basel Committee on Banking Supervision's standard on prudential treatment of cryptoasset exposures (i.e. whether it is a "cryptoasset" for those purposes). Its treatment for prudential purposes under that standard is likely to be very important for banks taking exposures to them. The analysis will depend on how the asset is structured and how the standard has been implemented in national legislation. The Bank of England has launched a survey seeking to collect data on firms' exposures to tokenised assets, stablecoins and other cryptoassets.

BCBS member states have agreed to implement the standard by 1 January 2026. In the EU, the latest iteration of the Capital Requirements Regulation requires the Commission to propose a dedicated prudential treatment for cryptoassets by 30 June 2025. It also outlines how banks should treat cryptoassets in the interim e.g. for risk-weighting purposes. Banks will need to assess whether their existing models and procedures accord with CRR III in this interim period, as well as responding to any changes proposed by the Commission.

Learn more

- > 10 key takeaways from the Bank of England's latest paper on digital cash
- > Linklaters advises UK Finance on the successful outcome of its Regulated Liability Network experimentation phase

09 Other developments

- **Big Tech in financial services:** The FCA and PSR will give an update following its wide-ranging Call for Information on Big Tech and digital wallets. Key themes in the paper, which followed other policy work on the impact of Big Tech's entry into financial services, were the impacts of digital wallets on consumers and businesses (such as fees, security and convenience), the integration of account-to-account payments, and operational resilience. A feedback statement is expected in Q1 2025.
- **Fundamental Rules for FMIs:** The Bank of England will finalise its ten Fundamental Rules for financial market infrastructure following a consultation. The draft rules would require recognised payment system operators and specified service providers to, for example, identify, assess and manage the risks that their operations could pose to the stability of the financial system. In the Bank's view, a payment system should act as a "systemic risk manager" with a view of the end-to-end risks in payment chains. The consultation closes on 19 February 2025.
- **Failure to prevent fraud offence:** By 1 September 2025, large UK organisations will need to have in place reasonable procedures to prevent fraud being committed by their associated persons (such as employees, agents, subsidiaries and other persons that perform services for or on their behalf) so that they have the best chance of raising a defence if prosecuted for failing to prevent such wrongdoing.
- **SMCR for payments:** The FCA will continue to argue that payment and e-money firms should be subject to the Senior Managers and Certification Regime to strengthen individual accountability and governance at these firms and the FCA's ability to supervise them. The SMCR is currently under review by HMT and the regulators.
- **Digital euro regulation:** The EU will lay the regulatory groundwork for a future digital euro. Trilogue talks in 2025 will aim to agree legislation to amend payments and anti-money laundering rules to take into account any future launch.
- **Accessibility Act:** The EU Accessibility Directive aims to make sure that persons with disabilities and elderly people can access products and services in the EU's single market. It applies common standards to several service types, including payment services and e-money. From 28 June 2025 firms must ensure the accessibility of their products, present information in an understandable way and provide ID methods, electronic signatures, security, and payment services which are perceivable, operable, understandable and robust.

Learn more

- UK regulators consider their approach to big tech and digital wallets
- Bank of England drafts fundamental rules for financial market infrastructure
- Government publishes guidance on new failure to prevent fraud offence
- EU lays out ambitious plans to open up financial data and reform digital payments

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