**Applications for bank accounts in the UK by non-bank Payment Service Providers**

**Process overview and Guidance for Stage 1 – Pre-clearance**

**Process overview**

The Association of UK Payment Institutions has formulated a new approach for applications for bank accounts in the UK by the three types of non-bank Payment Service Provider:

* Payment Institutions (PIs)
* eMoney Institutions (eMIs)
* Third-Party Providers (TPPs) – meaning an Open Banking intermediary in the form of either an Account Information Service Provider (AISP) or a Payment Initiation Service Provider (PISP). A PISP will be authorised as a PI but does not make payments: it relays payment orders

The new approach builds on three pillars:

1. The process flow commonly used in referral networks between banks, such as Connector ([www.connectorbanks.com](http://www.connectorbanks.com)) and IBOS Association ([www.ibosbanks.com](http://www.ibosbanks.com));
2. The general guidelines for this topic formulated in the work organised by UK Finance pursuant to the “Liability under Indirect Access Models” stream of the Payment Strategy Forum, and which resulted in a set of Good Practice Guidelines;
3. The outputs of the Wolfsberg Group ([www.wolfsberg-principles.com](http://www.wolfsberg-principles.com)) in the form of a series of questionnaires to be completed by a financial institution when requesting or renewing banking facilities with another financial institution.

The new approach will operate in the context of Article 105 of the 2017 Payment Services Regulations, which requires that credit institutions offer accounts to non-bank Payment Service Providers on a POND basis (proportionate, objective and non-discriminatory), and that if a credit institution rejects an application for or withdraws the servicing of accounts, the credit institution must send a notification in a specified form to the Financial Conduct Authority.

The Payment Systems Regulator has recently confirmed to us that both they and HM Treasury take the view that the safeguarding accounts do fall within the scope of Article 105 PSRs 2017. They have directed us to paragraph 3.23 and 3.24 of their guidance, to which you can click through here: [our guidance](https://www.psr.org.uk/sites/default/files/media/PDF/PSR-PSD2-Approach-and-PPG-September-2017-.pdf).

This is mentioned because there has been some doubt as to whether, for example, UK Finance’s “Good Practice Guidelines” apply to safeguarding accounts or just to payment accounts.

Two further qualifications need to be noted:

1. TTPs are not permitted to hold customer monies and so do not require safeguarding accounts;
2. The Payment Systems Regulator (PSR) has issued its Specific Direction 1 (SD1) to a small group of banks that offer Indirect Access to payment systems as defined. SD1 determines certain process points that these banks must follow when handling an application for Indirect Access. SD1 further determines that these same banks must follow the same process when handling an application for access to payment accounts:
	1. These rules only apply to applications for payment accounts and to this small group of banks;
	2. They do not apply to applications for safeguarding accounts from these same banks;
	3. They do not apply to applications for either payment accounts or safeguarding accounts from banks not counted by the PSR as Indirect Access Providers (IAPs);
	4. This new approach designed by AUKPI is compatible with SD1, but the approach is obligatory neither for the banks that are IAPs nor for those that are not;
	5. Nevertheless, it is hoped that all banks will find it efficient and economical.

The new approach has three stages, in the same way that referral processes in Connector and IBOS have three stages:

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| **Stage** | **Timing** | **Outcome** | **Documents** |
| Pre-clearance | 10 business days | Agreement to go into Due Diligence, or rejection notification to the FCA | Pre-clearance letter |
| Due Diligence | 6-8 weeks | Agreement to go into Set-up, or rejection notification to the FCA | Detailed description for the bank to Know Your Customer’s Business, and Wolfsberg Group Due Diligence Questionnaire |
| Set-up | Dependent upon complexity of the implementation | Go-live, conversion, post-conversion support and normal running | Bank’s documents for the accounts, services and facilities required, plus IT testing and implementation project as appropriate |

This note contains specific guidance about Stage 1.

There are accompanying papers about identifying Ultimate Beneficial Owners and identifying Politically Exposed Persons, as this needs to be addressed before applying to banks.

Guidance on Stage 2 will come in the form of:

1. A specific note on how to complete Know Your Customer’s Business, which is about your own business and which will complement the information required by the Wolfsberg Group Due Diligence Questionnaire;
2. The set of guidance notes issued by Wolfsberg Group itself for the completion of the Due Diligence Questionnaire;

Guidance on Stage 3 will come exclusively from the bank.

The staging concept is akin to a tender, in which the Pre-clearance stage parallels a Request for Information stage, the Due Diligence stage parallels a Request for Proposal, and the Set-up stage parallels the contracting stage after the tender has been awarded.

The Pre-clearance letter draws banks’ attention to one further parallel, namely that a PSP using this approach can be expected to be engaging with a number of banks in the Pre-clearance stage, and a much smaller number in the Due Diligence stage, and in parallel during each stage, in order to come to a decision about what banking partners best suit their needs.

This statement is meant to counteract the risk that banks might perceive it as a negative indicator in itself that the databases they consult show multiple enquiries being made within a short timespan on the same PSP. This is bound to happen if the banks, as they do, follow a similar process and consult the same databases.

**Guidance for Stage 1**

The primary aim of Stage 1 is to spare PSPs and banks from the time, effort and expense of going through Due Diligence on applications that have little or no chance of ultimately being successful.

Banks should be able to make a quick judgment based on summary information, in the same way as banks in the Connector and IBOS networks are able to make a judgement on referrals of corporate customers with connections to foreign countries.

This process is known as Pre-clearance and aims to deliver to the applicant either a clear refusal (and therefore a signal to look to other providers), or an agreement to go into detailed Due Diligence.

Banks are not obliged under Article 105 of the 2017 Payment Services Regulations to accept all applications, but they have to supply reasons for rejecting an application (and for withdrawing services from an existing customer). The reasons have to be POND, which necessitates that an internal organisation and policies must have been established within the bank to examine applications and determine whether they fit within the bank’s appetite or not.

This appetite should have crystallised as a Target Market Definition and a set of Risk Acceptance Criteria for the PSPs the bank is willing to take on.

This Stage 1 Pre-clearance letter needs to supply enough information for the bank to quickly determine whether the PSP fits inside or outside its Target Market Definition, and whether it complies with its Risk Acceptance Criteria or not.

You will note three questions in the Pre-clearance letter that merit comment:

1. Agreement to the process itself: it is important that there is evidence that the bank agrees to treat the application according to the process, so as to avoid common pitfalls:
	1. Absence of evidence that the bank has even received the application, or that it has started to process it;
	2. Lack of clear signal that the Due Diligence phase has started;
	3. Investment of time, effort and expense by the PSP in the initial stages of an application without clarity that the Due Diligence phase has started;
2. Source of Funds: the question is aimed at exposing whether the bank’s policy on Source of Funds will be met by a statement by the PSP that the source in a particular instance is an electronic payment (by card or credit transfer) from another regulated institution that is an “obliged entity” under AML/CFT regulations:
	1. The point is that the bank cannot then ask the PSP to demonstrate the original source of funds whereby the account at that other regulated institution was in funds sufficiently for the customer to make the transfer to the PSP;
	2. Banks have even asked this when the regulated institution in question was themselves;
3. Third-party audit: the principles to be established are:
	1. that a PSP may decide to have their Financial Crime processes and controls audited annually by a reputable firm, and to receive a report from that firm which can be shared with regulated institutions and indeed with regulators, without those parties becoming third-party beneficiaries of the report;
	2. the PSP pays for that report;
	3. the report covers the same set of issues that are addressed in the Wolfsberg Group Questionnaires;
	4. the report can be a Traffic Light exercise as widely used for such an exercise – Green = no issues; Amber = a comment; Red = a problem;
	5. the substance of the report will be that the policies, processes and controls – which the PSP has attested exist in its completion of the Wolfsberg Group Questionnaires – really do exist and are operated and managed in the manner stated;
	6. the PSP thus resists paying for one third-party audit for every bank it applies to, with different scopes and costs.

**Safeguarding**

PSPs must make themselves aware of the requirements around safeguarding of customer monies.

PSPs who do not need to safeguard (because, for example, the funds have come into and left their control within the designated time period) may find that their business needs can be met by another PI or by an eMI.

This process is meant for those PSPs who want to have their accounts with banks, or who must have accounts with banks because of safeguarding.

**Sets of accounts needed**

The Pre-clearance stage does not ask for detail about the bank’s service offering, but it should at least consist of:

* + A set of accounts for the operations and own funds of the PI firm
	+ A set of accounts for the throughput of customer funds, which must be named in such a way as to be distinguished from the accounts for the operations and own funds of the PI firm, in the way outlined in the recent FCA consultation (see below)

This would be sufficient for a PSP that did not require safeguarding.

Where safeguarding is required, there need to be three sets of accounts:

* + As above, a set of accounts for the operations and own funds of the PI firm
	+ As above, a set of accounts for the throughput of customer funds, which must be named in such a way as to be distinguished from the accounts for the operations and own funds of the PI firm, in the way outlined in the recent FCA consultation (see below)
	+ In addition, a set of safeguarding accounts, for which the bank can counter-sign the acknowledgement letter required by the recent FCA consultation (see below)

**Naming of accounts and confirmation of safeguarding account status**

The set of accounts for the throughput of customer funds need to be named in line with the contents of the FCA’s proposed new guidance as per their consultation “Coronavirus and safeguarding customers’ funds: proposed guidance for payment firms”:

* <https://www.fca.org.uk/publications/guidance-consultations/coronavirus-safeguarding-customers-funds-proposed-guidance-payment-firms>

An acknowledgement needs to be forthcoming from the bank accepting the set of safeguarding accounts as per Annex 1 of the FCA’s consultation:

* <https://www.fca.org.uk/publication/guidance-consultation/coronavirus-safeguarding-customers-funds-annex-1-safeguarding-bank-custodian-acknowledgement-letter.pdf>

BL/1.7.20