



Association for Payment Clearing Services

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Our ref: HMT/01/03 (i)

24 April 2003

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THE FINANCIAL SYSTEM AND MAJOR OPERATIONAL DISRUPTION

I attach a response from APACS and the Clearing Companies (CHAPS, BACS, and Cheque and Credit Clearing) to your consultation paper. It contains a good deal of explanatory discussion, as well as specific comments from Clearing Companies and individual members, since the questions raised in your paper are important but are far from simple to address.

Some key points, summarised below, cropped up repeatedly in our internal and external discussions.

1. There is a case for some legislative changes to reduce uncertainties and provide clarity - but the risk of unintended consequences is very real, so any new legislation needs to be framed with care and in close consultation with the financial industry. APACS and the Clearing Companies would be very willing to assist in this. But the timeframes implied in utilising the proposed Civil Contingencies Bill as the vehicle are almost certainly too short for this purpose.
2. Many high-value payments and securities settlements in the UK are just one part of a transaction whose other elements take place elsewhere in the world, or with international counterparties, or under non-UK legal jurisdiction. There are interdependencies across the UK clearings and with payment systems such as TARGET and CLS which are international. UK measures to address major operational disruption need to be developed in close coordination with those of other countries.
3. There is a lot of focus on the high-value systems, which have liquidity, systemic risk and international dependency implications. However the social impact of failures in high-volume systems such as BACS, Cheques and cash payments may be much greater. Clear and timely communication to the public and the media will be a key priority. Since transaction volumes in these systems are very large and affect many customers, logistics

issues and the use of manpower resource could also be critical, to mitigate any hardship and to minimise any potential need to handle backlogs or queries relating to hundreds of thousands of transactions.

4. Government intervention in suspending a payment system would be most productive and least risky if performed selectively in extreme circumstances only, at the request of the payment system concerned, to assist the payment system in managing a controlled shut-down of its operation with minimum risk of subsequent litigation. Broadbrush intervention, such as declaring a Bank Holiday, is unlikely to work well.

5. Individual payment systems' own contingency arrangements are resilient, well thought through and tested regularly. Potential government intervention - such as declaration of a Major Operational Disruption situation - should be confined to events where disruption extends well beyond an individual payment system. Particular attention should be paid to the telecommunications infrastructure, on which all payment systems and securities settlement depend.

The consultation paper also prompted us to consider what extra steps the private sector could take to prepare itself to handle a major operational disruption. Individual payment clearings have already been tightening their rules to provide greater clarity and legal certainty. APACS is discussing with the BBA, LIBA, LINK and the Clearing Companies how pan-industry communication links and mutual contingency arrangements might usefully be strengthened. We are exchanging views with our US counterparts through their Financial Services Round Table.

APACS and the Clearing Companies are happy to play a part in pan-industry activities to minimise the impact of major operational disruption, as part of government consultation for via the tripartite Bank of England/ FSA/ HM Treasury forum.

Yours sincerely

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