

OPEN BANKING

OPEN BANKING PAYMENTS - PROTECTING CUSTOMERS

9 September 2021

Classification: PUBLIC

Agenda

- Welcome and introduction
- Purchase risk
- Managing purchase risk
- Current Regulatory Framework

Important Notices

Competition Law:

- Many of you are from competitor organisations. As you will be aware it is critical that we all comply with competition law. If you are in any doubt about competition law compliance you should consult your compliance team.
- The discussions between the attendees should be limited to discussing issues of general concern and you must not share or discuss any information that is commercially sensitive and not in the public domain – that includes: current or future prices, strategies, matters about customers or suppliers.
- You can and should share your expertise about the matters that are specific to today's agenda and can talk about matters that are public.
- If any topic is raised which you feel uncomfortable discussing, please make this known and we will immediately adjourn discussions on that point.

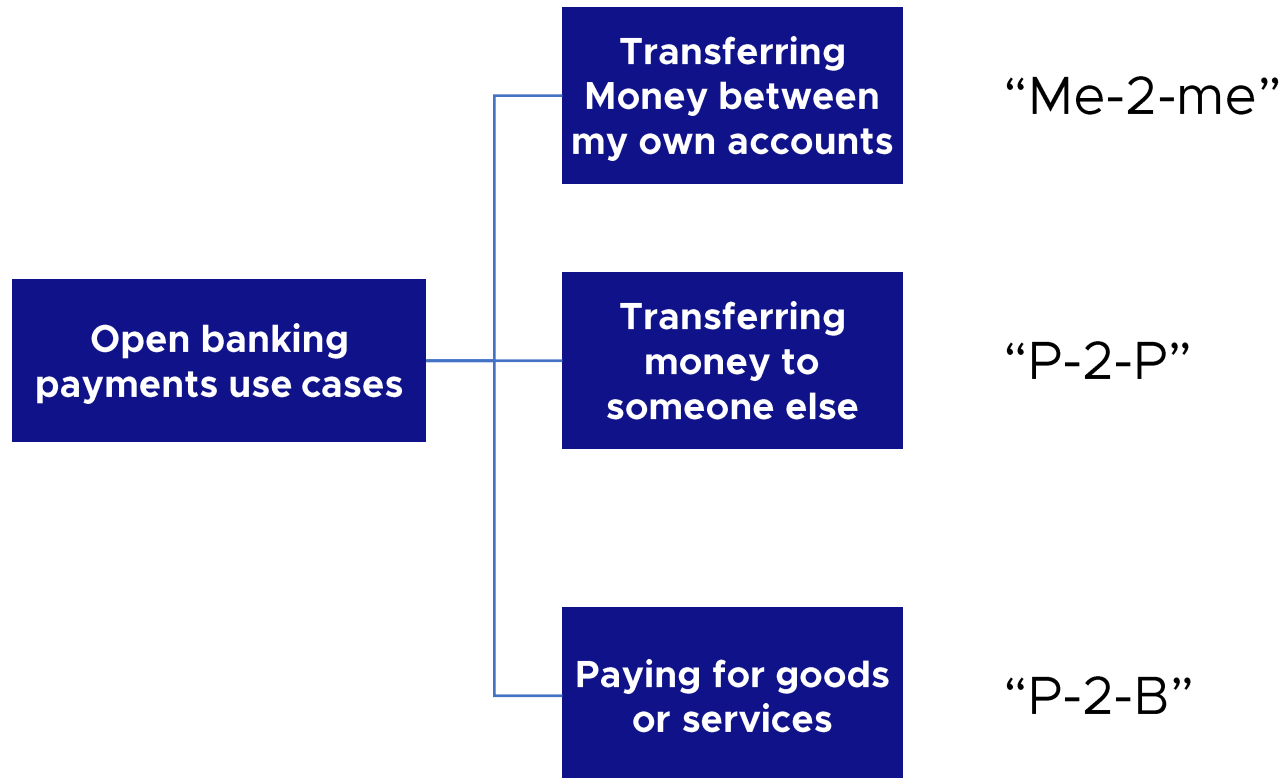
General:

The contents of these slides do not constitute legal advice. Whilst they have been drafted with regard to relevant regulatory provisions and best practice, it is not a complete list of the regulatory or legal obligations that apply and firms are responsible for their own compliance with all regulations and laws that apply to them, including without limitation, PSRs, PSD2, GDPR, consumer protection laws and the FCA Handbook.

Background

- Revised Roadmap and the Consumer Protection Working Group
- Growth in volume of open banking payments

There are a range of different uses for open banking payments

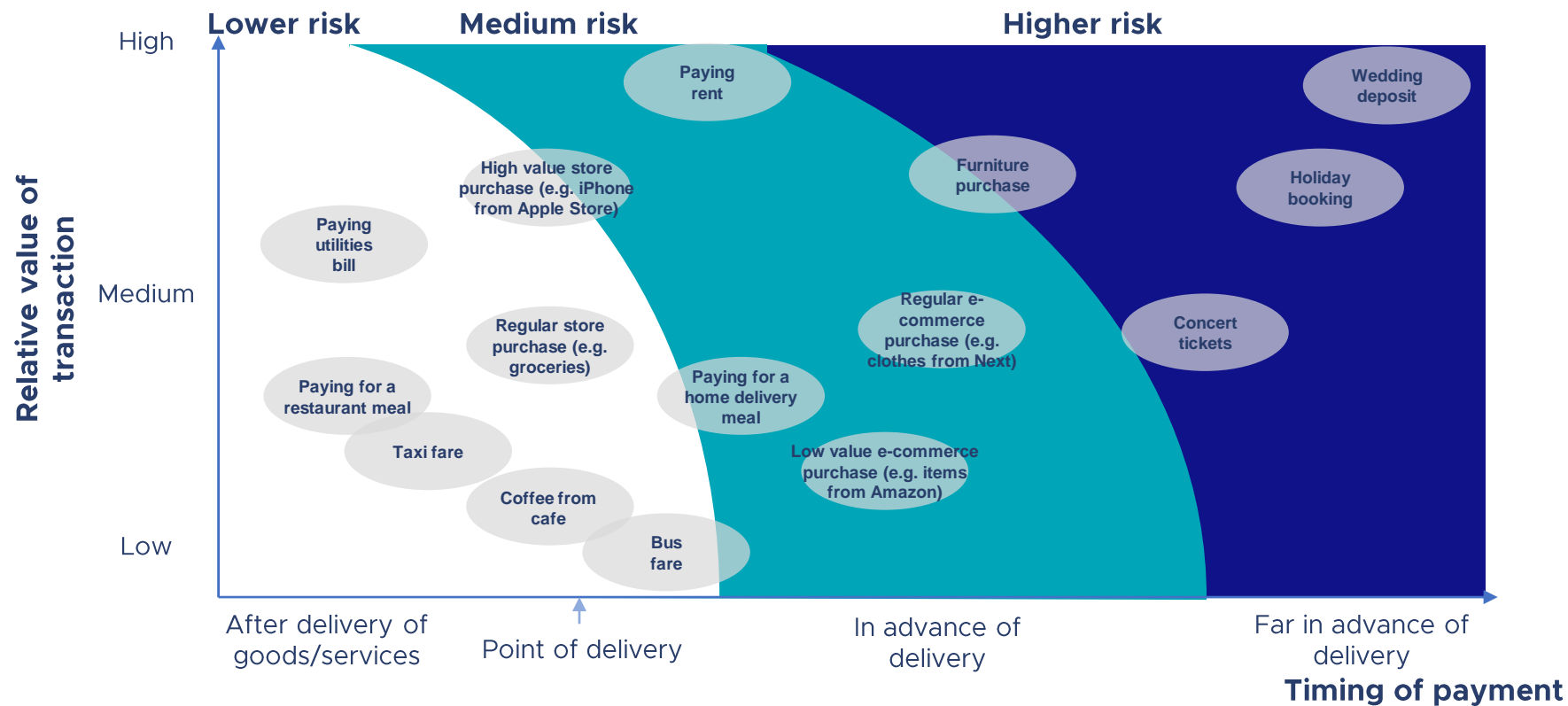


.... and each transaction purpose has a different risk profile

	Sources of harm			
	Incorrect execution of the payment	Money sent to the wrong account	Malicious payee fraud	Contractual dispute with the payee
Transferring Money between my own accounts				
Transferring money to someone else				
Paying for goods or services				
	Execution risk		Fraud risk	Purchase risk

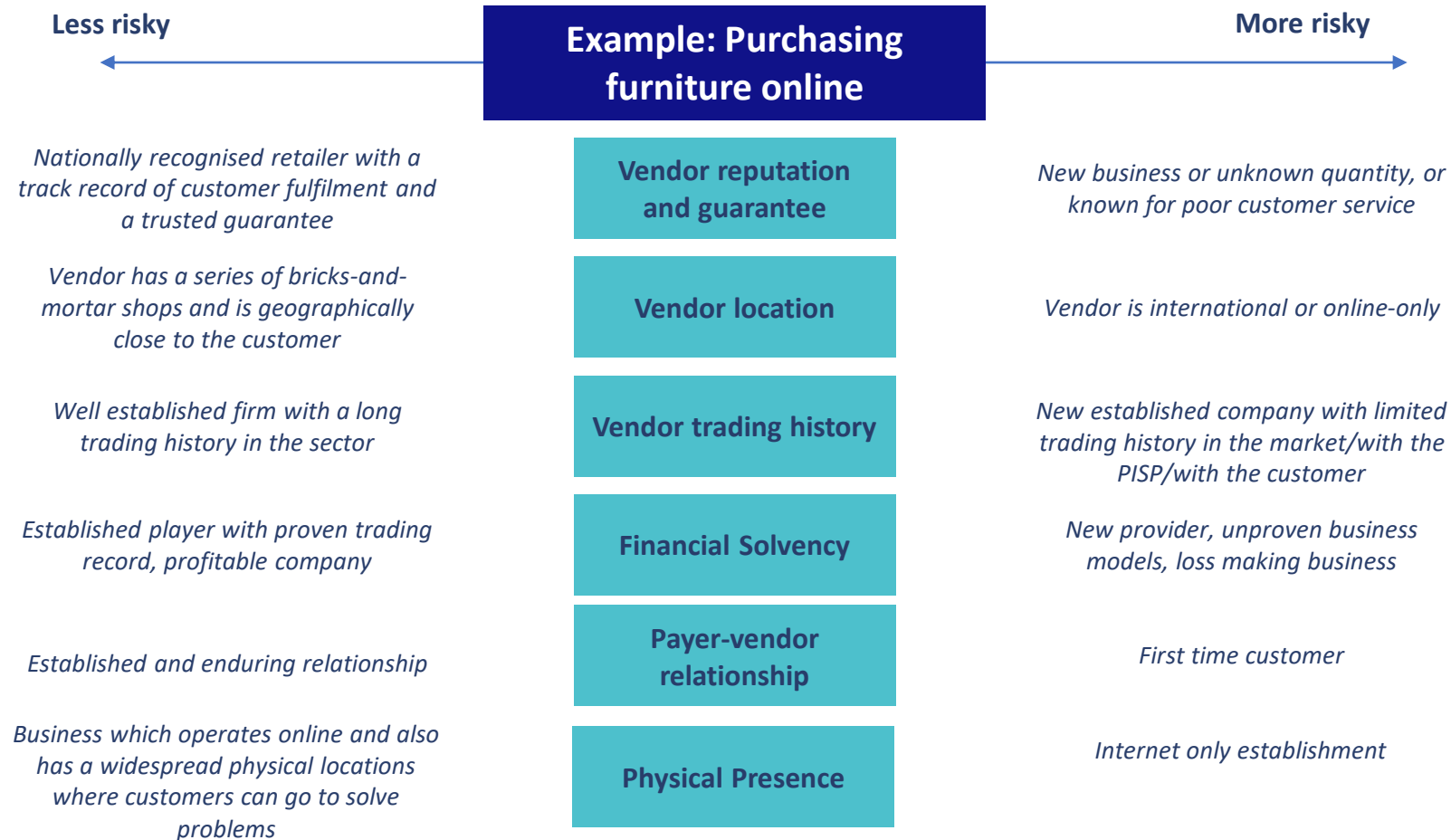
Not all transactions carry the same level of purchase risk.....

Impact of transaction value and timing on purchase risk



... and risk also varies with who you have contracted with

Potential counterparty risk factors affecting transaction



Audience feedback - Voting

Hypothesis

The concept of “Purchase Risk” is helpful and is determined by

- i. **Value** of transaction,
- ii. **Timing** of payment relative to delivery of goods or services, and the
- iii. **Counterparty** to the transaction

Question 1: Purchase risk is a useful idea when considering payments - Do you agree?

Question 2: The level of purchase risk is driven by Value, Timing, and Counter party - Do you agree?

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Purchase risk can be managed by controlling who participates or developing harm reduction strategies

Participation Controls

Hurdles to be overcome before participation in the system:

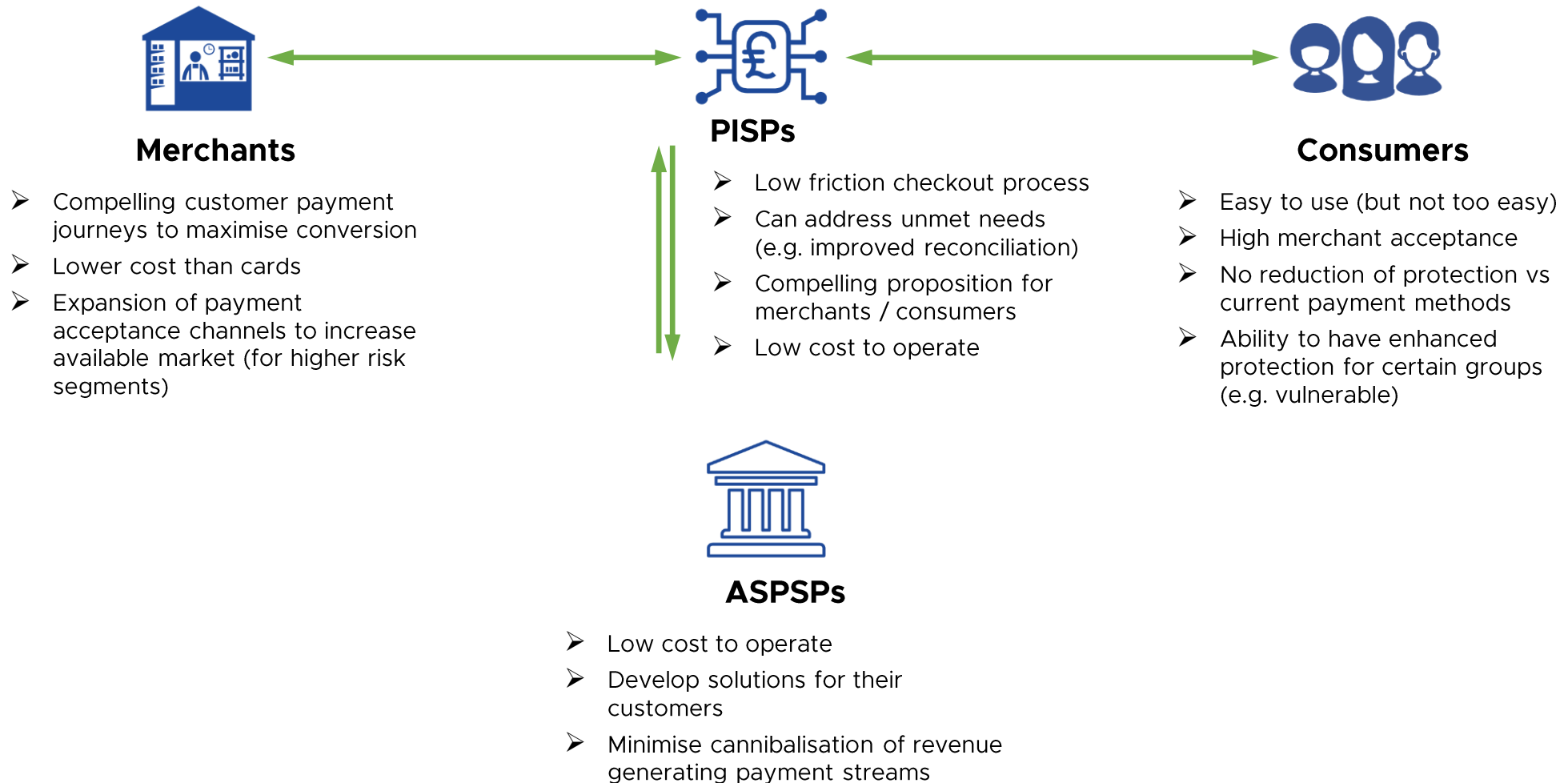
- Warnings to customers the risks
- Minimum standards for merchants / payees
- Voluntary/ Mandatory codes of conduct for PISPs
- Specific rules for sectors/ firms (white lists / black lists)

Harm reduction strategies

Reducing impact of harm

- Complaints processes with goods/services provider
- Legal protections via the Consumer Rights Act
- Insurance / guarantee scheme (e.g. chargebacks on cards, buyer protection scheme, insolvency guarantees)

Participants in the ecosystem have differing incentives which may not align



What action should be taken, by whom to manage purchase risk?

Let the market
develop
solutions

Regulatory
interventions

Question 3: Does action need to be taken to manage purchase risk?

Question 4: If action is needed to manage purchase risk what is the best way to make this happen?

Regulatory landscape

Actors in the payment chain (PISPs, ASPSPs)

- Regulated by the FCA and need to meet conduct obligations
 - TCF and ensuring good customer outcomes
 - Appropriate disclosures to customers
 - A robust customer centric product development process
 - Potential “Customer Duty”
-

Payment Systems

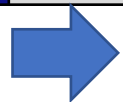
- Designated systems regulated by the Payment Systems Regulator (PSR) :
 - Ensure systems operate for the benefit of end users
 - Promote effective competition
 - Promote innovation

There are a range of options to manage purchase risk

Increasing specificity of regulator intervention



Participation Controls	Warnings	Industry campaign to educate PSUs	PISPs choose to display warnings when relevant	Code of conduct around warnings	Regulator requires warnings for certain transactions				
	PISP / merchant controls	Mandatory KYC obligations	Agreed standards for enhanced DD	Agreed minimum standards for initiating retail payments (Code of conduct)	Agreed minimum standards for payee participation (Code of conduct)	Agreed sector white/black lists	Regulator imposed standards for enhanced DD	Regulator defined standards for participation (payee)	Regulator defined white/black lists
Harm reduction strategies	Complaints	Complaints process is a matter for the merchant not the PISPs	Regulator states the expectations of a merchant complaints process (e.g. publicly defined process; clear contact details promoted)	Independent monitoring of complaints levels (e.g. by sector/PISP)	If merchant does not have an independent complaints process (e.g. ombudsman), PISP must display an additional warning during journey	Customer can complain to PISP and if not happy can escalate to FOS (dependent on some form of industry insurance scheme)	Regulator establishes a dedicated complaints body alongside / in addition to FOS to escalate issues (requires industry insurance scheme)		
	Insurance	PISPs choose to offer insurance when they deem it applicable	PISPs develop an industry-wide insurance scheme	Regulator defines the scope of insurance expected (e.g. bankruptcy; goods / services not as advertised / received)	Regulator requires PSUs be offered insurance for medium / high risk transactions	Regulator requires that insurance is mandatory for high risk transactions	Regulator defines an insurance scheme for all PISP transactions where PISP is liable for goods services not as described and / or bankruptcy		
	Litigation	Small claims is a matter for individual PSU's	Provide guidance to support small claims applications						



- However, need to measure to effectively manage

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Any Questions?