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NOTE: DELOITTE REPORT - QUESTIONS FOR POL

1. In this Note references to the 'Deloitte Report' are references to Draft 16 of the report "Horizon: Desktop Review of Assurance Sources and Key Control Features – Draft for Discussion" dated 23rd May 2014 and provided to us on the 26th February 2015. We have noted, and in settling this Note are mindful of, the status of the Deloitte Report as being that of "*....a work in progress which may contain preliminary results or conclusions, incomplete information or information which is subject to change....*" (Deloitte letter, 16 January 2015 and headed "Project Zebra consolidated report.....").
2. Page 31, paragraph 'g.' of the Deloitte Report identifies a method of posting of 'Balancing Transactions', that is, the posting of "*....additional transactions centrally without the requirement for these transactions to be accepted by the Sub-postmasters....*" The paragraphs goes on to indicate that, "*Whilst an audit trail is asserted to be in place over these functions, evidence of testing of these features is not available....*"
3. Later extracts for this paragraph are also of concern:
 - "*For Balancing Transactions.....we did not identify controls to routinely monitor all centrally initiated transactions to verify that they are all initiated and actioned through known and governed processes, or controls*

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to reconcile and check data sources which underpin current period transactional reporting for Sub-postmasters to the audit store record of such activity...."

– *"Controls that would detect when a person with authorised privilege access used such access to send a fake basket into the digital signing process could not be evidenced to exist."*

4. This material is potentially disclosable in cases where a convicted defendant had raised, as a part of his defence (either expressly or by implication), the suggestion that:

- POL or some other third-party had manipulated, interfered with or otherwise compromised Horizon; or
- Horizon had created or was the victim of a system generated but inexplicable loss/entry/transaction(s); or
- The defendant simply had no idea how the relevant loss arose.

5. That is not to say that the material is presently to be disclosed, only that we cannot determine that issue without further information. It may be that, once we have seen all of the available information, we conclude that the duty to disclose does not bite in relation to this material.

6. In a telephone conference with Rodric Williams of POL and Andrew Parsons of Messrs Bond Dickinson we were informed that the Deloitte Report was correct where it identifies a method of posting of 'Balancing Transactions'. We were instructed that it was possible to 'inject' a transaction unilaterally into a branch's accounting records without the consent, approval or indeed knowledge of the SPMR; an 'injected' transaction could be a negative-value

transaction; it is not clear as to whether or not that 'injected' transaction would be visible to the SPMR or a defence expert witness; there is one recorded occasion upon which Fujitsu has used the procedure. We were further instructed that there was no facility or capability to 'edit' any existing transaction.

7. We have seen a report dated 2nd March 2010 concerning the use of a Balancing Transaction. We are told that this is the single occasion upon which the process has been used since the 1st January 2010. It cannot be ascertained whether or not the Balancing Transaction process had been used prior to that date because of (entirely proper) retention policies.
8. In order to advise properly on this topic, we seek the answers to the following questions:
 - i. Is or would the use of the Balancing Transaction function, or any effect thereby achieved, be visible:
 - a) to an affected SPMR either:
 - i. upon the immediate occasion of its use; or
 - ii. at some point after use, *e.g.* by notification, appearance on Horizon, in branch accounts *etc.*
 - b) an auditor when conducting a branch audit?
 - c) when data is provided to or obtained by a prosecution expert witness?
 - d) when data is disclosed to a defence expert, for any purpose?
 - e) in the final audit trail?

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- ii. How and in what circumstances may the Balancing Transaction function be utilised?
- iii. Who may use the Balancing Transaction function, in terms of authority, access, *etc.*?
- iv. What measures, controls or processes are in place to routinely monitor centrally initiated Balancing Transactions, and to check and reconcile data sources?
- v. Similarly, what measures, controls or processes are in place to prevent any unauthorised use of the Balancing Transaction function? Here we note the reference in the Deloitte Report to 'fake' transactions;
- vi. What records are maintained of any use of the Balancing Transaction function?
- vii. Is POL/Fujitsu sure that the Balancing Transaction function has only been used on a single occasion since 1st January 2010? And if not, why not?

Simon Clarke
Cartwright King Solicitors

27th March 2015