

**FEES (PAYMENT SYSTEMS REGULATOR) (INDIRECT BILLING)
INSTRUMENT 2015**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the powers in paragraph 9 (Funding) of Schedule 4 (The Payment Systems Regulator) of the Financial Services (Banking Reform) Act 2013 (“FSBRA”); and
 - (2) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137T (General supplementary powers);
 - (b) section 139A (Power of the FCA to give guidance); and
 - (c) paragraph 23 of schedule 1ZA (Fees).
- B. The rule-making powers listed above are specified for the purpose of paragraph 9 of schedule 4 to FSBRA and section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 27 October 2015.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

Notes

- F. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- G. This instrument may be cited as the Fees (Payment Systems Regulator) (Indirect Billing) Instrument 2015.

By order of the Board
22 October 2015

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>acquirer</i>	a <i>payment service provider</i> contracting with a <i>payee</i> to enable them to accept <i>payment transactions</i> made by means of any card, telecommunication, digital or IT device or software, and which result in a transfer of funds to the <i>payee</i> .
<i>Bacs</i>	the Bacs regulated payment system designated by HM Treasury under section 43 of <i>FSBRA</i> .
<i>C&C</i>	the Cheque & Credit regulated payment system designated by HM Treasury under section 43 of <i>FSBRA</i> .
<i>card issuer</i>	a <i>payment service provider</i> contracting with a <i>payer</i> to enable the latter to initiate a <i>payment transaction</i> , made by means of any card, telecommunication, digital or IT device or software.
<i>card payment system</i>	a <i>regulated payment system</i> that enables a holder of a payment card to effect a payment.
<i>CHAPS</i>	the CHAPS regulated payment system designated by HM Treasury under section 43 of <i>FSBRA</i> .
<i>direct access</i>	access to a <i>regulated payment system</i> to enable a <i>payment service provider</i> to provide services for the purposes of enabling the transfer of funds using the <i>regulated payment system</i> , as a result of arrangements made between that <i>payment service provider</i> and the <i>operator</i> (and other <i>participants</i> , as applicable). [Note: see section 42(6) of <i>FSBRA</i>]
<i>direct payment service provider</i>	any <i>person</i> with <i>direct access</i> to a <i>regulated payment system</i> who provides services to consumers or businesses who are not <i>participants</i> in a <i>regulated payment system</i> , for the purposes of enabling the transfer of funds using that <i>regulated payment system</i> . For the purposes of <i>FEES 9</i> , <i>direct payment service provider</i> includes an <i>acquirer</i> and a <i>card issuer</i> , and does not include the Bank of England.
<i>FPS</i>	the Faster Payments Scheme regulated payment system designated by HM Treasury under section 43 of <i>FSBRA</i> .
<i>LINK</i>	the LINK regulated payment system designated by HM Treasury under section 43 of <i>FSBRA</i> .

<i>MasterCard</i>	the MasterCard regulated payment system designated by HM Treasury under section 43 of <i>FSBRA</i> .
<i>NICC</i>	the Northern Ireland Cheque Clearing regulated payment system designated by HM Treasury under section 43 of <i>FSBRA</i> .
<i>non-card payment system</i>	a <i>regulated payment system</i> other than a <i>card payment system</i> .
<i>'on us' transactions</i>	transactions where the <i>acquirer</i> and <i>card issuer</i> are the same entity.
<i>payee</i>	a <i>person</i> who is the intended recipient of transferred funds.
<i>payer</i>	a <i>person</i> who holds a payment account and allows instructions to be given to transfer funds from that payment account, or who gives instructions to transfer funds.
<i>payment system allocation</i>	for each <i>regulated payment system</i> listed in column 1 of Table A of <i>FEES 9 Annex 1R</i> , the annual allocation of <i>PSR fees</i> specified for that <i>regulated payment system</i> in column 2 of Table A of <i>FEES 9 Annex 1R</i> .
<i>payment system denominator</i>	for each <i>regulated payment system</i> listed in column 1 of Table A of <i>FEES 9 Annex 1R</i> , the figure specified for that <i>regulated payment system</i> in column 6 of Table A and which is also the total <i>transaction volumes</i> for that <i>regulated payment system</i> undertaken by all relevant <i>direct payment service providers</i> in the <i>relevant time period</i> , prior to any adjustment resulting from the application of <i>FEES 9.2.1AR</i> .
<i>payment transaction</i>	an action of transferring funds, initiated by the <i>payer</i> or on its behalf or by the <i>payee</i> , irrespective of any underlying obligations between the <i>payer</i> and the <i>payee</i> .
<i>processing entity</i>	any <i>person</i> providing payment transaction processing services, in terms of the actions required for the handling of a payment instruction between the <i>acquirer</i> and the <i>card issuer</i> in a <i>card payment system</i> .
<i>relevant time period</i>	for each <i>regulated payment system</i> listed in column 1 of Table A of <i>FEES 9 Annex 1R</i> , the time period or date specified for that <i>regulated payment system</i> in column 4 of Table A.
<i>transaction volumes</i>	for each <i>regulated payment system</i> listed in column 1 of Table A of <i>FEES 9 Annex 1R</i> , the number of transfers of funds of the type specified in column 5 of Table A undertaken by a <i>direct payment service provider</i> in the <i>relevant time period</i> .
<i>transactions by acquirers operating in the United Kingdom</i>	all transactions acquired by: <ul style="list-style-type: none"> (a) <i>UK-based acquirers</i> resulting in payments to merchants located

in the *United Kingdom*;

- (b) *UK-based acquirers* resulting in payments to merchants located outside the *United Kingdom*; and
- (c) non-*UK-based acquirers* resulting in payments to merchants located in the *United Kingdom*.

transactions by card issuers operating in the United Kingdom

all transactions on cards issued by *UK-based card issuers*, irrespective of where the cardholder is located or the payment is initiated.

Visa

the Visa Europe regulated payment system designated by HM Treasury under section 43 of *FSBRA*.

Amend the following definitions as shown.

participant

- (a) (except in *FEES 9*) (in accordance with section 235(2) of the *Act* (~~*Collective investment*~~ *Collective investment* schemes)) a *person* who participates in a *collective investment scheme*.
- (b) (in *FEES 9*) in relation to a regulated payment system, any operator, payment service provider and infrastructure provider to that regulated payment system.

[Note: see section 42(2) of *FSBRA*]

payment service provider

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- (3) (in *FEES 9*) any person with access to a regulated payment system who provides services to consumers or businesses who are not participants in a regulated payment system, for the purposes of enabling the transfer of funds using that regulated payment system. For the purposes of *FEES 9*, the Bank of England is not considered a payment service provider.

payment system

- (a) (in accordance with section 41 of *FSBRA*), a system which is operated by one or more *persons* in the course of business for the purpose of enabling *persons* to make transfers of funds, and includes a system which is designed to facilitate the transfer of funds using another payment system;
- (b) but “payment system” does not include:
 - (i) any arrangements for the physical movement of cash;
 - (ii) a system which does not make any provision for the transfer of funds by payers, or to recipients, in the *United Kingdom*;

- (iii) ~~a securities settlement system operated by a *person* approved under regulations made under section 785 of the Companies Act 2006 (provisions enabling procedures for evidencing the transferring title);~~
- (iv) ~~a system operated by a *recognised clearing house*;~~
- (v) ~~any other system whose primary purpose is not that of enabling *persons* to transfer funds.~~

[Note: section 42(3) of *FSBRA*]

PSR the Payment Systems Regulator Limited, the *body corporate* established by the *FCA* under section 40(1) of *FSBRA*.

PSR fee the fee payable to the *FCA* by an ~~operator of a regulated payment system~~ a direct payment service provider under *FEES* 9.2.1R.

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1 Fees Manual

1.1 Application and purpose

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Application

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- 1.1.2A R *FEES 1 and FEES 9 apply to ~~an operator~~ operators of a regulated payment ~~system~~ systems and direct payment service providers.*

...

9 Payment Systems Regulator funding

9.1 Application and purpose

Application

- 9.1.1 R This chapter applies to ~~an operator~~ operators of a regulated payment ~~system~~ systems and direct payment service providers.

Purpose

- 9.1.2 G This chapter sets out the fee payable by ~~an operator~~ of a ~~regulated payment system~~ a direct payment service provider to establish and fund the PSR.

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- 9.1.4 G (1) Paragraph 9 of Schedule 4 of *FSBRA* allows the *FCA* to make *rules* requiring ~~participants~~ participants in regulated payment systems to pay the *FCA* specified amounts or amounts calculated in a specified way to:

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9.2 PSR fees

Obligation to pay PSR fees

9.2.1 R ~~An operator of a regulated payment system~~ A direct payment service provider, acquirer or card issuer must pay the ~~applicable PSR fee~~ fees applicable to it and calculated as set out in FEES 9 Annex 1R:

- (1) in full and without deduction; and
- (2) in accordance with this chapter, subject to FEES 9.2.1AR.

9.2.1.A R If either of the following tests is met by an acquirer or card issuer in any given fee year, the transaction volumes attributable to that acquirer or card issuer are not be included in the payment system denominator for that card payment system for that fee year, and that acquirer or card issuer is not required to pay any PSR fee for that fee year where:

- (1) the PSR fee for that acquirer or card issuer calculated as set out in FEES 9 Annex 1R would be less than £50 for the current fee year if FEES 9.2.1AR were not applied; or
- (2) for an acquirer, less than 100,000 transactions by an acquirer operating in the United Kingdom were realised in the relevant time period; or
- (3) for a card issuer, less than 100,000 transactions by a card issuer operating in the United Kingdom were realised in the relevant time period.

Time of payment

9.2.2 R ~~If an operator of a regulated payment system's fee~~ the PSR fee paid by a direct payment service provider for the previous fee year for a particular regulated payment system was at least £50,000 £20,000, that operator direct payment service provider must pay:

- (1) an amount equal to 50% of the PSR fee payable for the previous fee year, by ~~30~~ 15 April in the current fee year; and
- (2) the balance of the PSR fee due by ~~1 September~~ 15 August in the current fee year.

9.2.2A R The operator of each regulated payment system must pay the amounts collected (as collection agent for the FCA) under FEES 9.2.2R to the FCA by the following dates:

- (1) 30 April in the current fee year;
- (2) 1 September in the current fee year.

9.2.3 R ~~If an operator of a regulated payment system's fee~~ the PSR fee paid by a direct payment service provider for a particular regulated payment system for the previous fee year was less than £50,000 £20,000, the operator of that regulated payment system direct payment service provider must pay its PSR fee in full:

- (1) by ~~4~~ 15 August in the current fee year; or

- (2) if later, within 30 *days* of the date of the invoice ~~in the current *fee year*.~~

~~[Note: Transitional provisions apply to both FEES 9.2.2R and FEES 9.2.3R: see FEES TP 12.]~~

9.2.3A R The operator of each regulated payment system must pay the amounts collected (as collection agent for the FCA) under FEES 9.2.3R to the FCA by the following date:

- (1) 30 August in the current *fee year*; or
- (2) if later, within 15 days of the date payment of an amount in respect of PSR fees is received by the operator from a direct payment service provider.

[Note: Transitional provisions apply to FEES 9.2.2R to FEES 9.2.3AR inclusive: see FEES TP 12.]

Method of payment and invoicing

9.2.4 G An operator of a regulated payment system A direct payment service provider should pay its fees by electronic credit transfer and should notify the FCA operator to whom it is paying the relevant PSR fee if it intends to pay in another way.

9.2.4A R A direct payment service provider must pay its PSR fees to the operator (acting as collection agent for the FCA) of the regulated payment system to which the fee relates.

9.2.4B R The operator of a regulated payment system, acting as collection agent for the FCA, must pay to the FCA the amounts it receives from or on behalf of direct payment service providers under FEES 9.2.4AR.

9.2.4C R With respect to invoices for PSR fees:

(1) the operator of each regulated payment system must issue invoices to its direct payment service providers for the amount of the PSR fee relating to each direct payment service provider for their participation in that regulated payment system;

(2) invoices must be separate invoices which include only the amount of the PSR fee applicable to each direct payment service provider, and must include no other charges, fees, administrative or handling fees;

(3) invoices must be issued by the operator on a sufficiently timely basis to enable the direct payment service providers to pay PSR fees to the operator (acting as collection agent for the FCA) by the dates specified in FEES 9.2.2R and 9.2.3R.

9.2.4D R (1) The operator of a regulated payment system must provide to the PSR, for each of its direct payment service providers, a copy of:

- (a) its calculations (as specified in column 3 of Table A of FEES 9 Annex 1R); and
- (b) the underlying data (as specified in column 5 of Table A of FEES 9 Annex 1R).

(2) The operator of a regulated payment system must provide the information in (1) no later than the date it issues invoices to direct payment service providers in accordance with FEES 9.2.4CR.

9.2.4E G An operator of a regulated payment system should pay the amounts due to the FCA under FEES 9.2.4BR by electronic credit transfer and should notify the FCA if it intends to pay in another way.

Regulated payment systems ceasing to be a designated payment system Ceasing to be designated as a regulated payment system and ceasing to be a direct payment system provider of a regulated payment system

9.2.5 G The FCA will not relieve or refund a PSR fee if a payment system ceases to be a regulated payment system, or if a person ceases to be a direct payment service provider of a regulated payment system, after the start of that fee year.

9.2.6 R If a payment system ceases to be a regulated payment system, ~~the operator~~ all direct payment service providers of that system must pay any outstanding PSR fees before ~~it~~ the system ceases to hold that status.

9.2.6A R If a person ceases to be a direct payment service provider of a regulated payment system, it must pay any outstanding PSR fees in respect of that system, before it ceases to be a direct payment system provider of the system.

Late payments

9.2.7 R If ~~an operator of a regulated payment system~~ a direct payment service provider does not pay the total amount of its PSR fees before the end of the date on which it is due, it must pay to the FCA:

- (1) an administrative fee of £250; plus
- (2) interest on any unpaid part of the fee at an annual rate of 5% above the Official Bank Rate from time to time in force, accruing daily from the date on which the amount concerned became due.

9.2.7A G (1) The FCA may recover a PSR fee as a debt owed to it under paragraph 23 (8) of Schedule 1ZA of the Act.

(2) The FCA will consider taking action for the recovery (including interest) through the civil courts.

Reduction, remission and repayment of fees

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- 9.2.10 G The *FCA* will not consider a claim to refund a *PSR fee* due to a mistake of fact or law by the fee paying ~~*operator of a regulated payment system*~~ *direct payment service provider* if the claim is made more than two years after the beginning of the *fee year* to which the fee relates.

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[continued]

9 Annex 1R PSR fees for the period 1 April 2015 to 31 March 2016

The table below shows the *PSR fee* applicable to the ~~operator~~ *direct payment system providers, acquirers and card issuers* of each *regulated payment system*.

Table A

Name of regulated payment system	Amount payable by the relevant operator (£)
{tbe}	{tbe}

Substitute the following new table for the table in 9 Annex 1R. The text is not underlined.

Regulated payment system (column 1)	Payment system allocation for 2015/16 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
<i>Bacs</i>	4,014,300	The <i>PSR fee</i> is calculated for each individual <i>direct payment service provider</i> proportionally to the <i>transaction volumes</i> processed on behalf of that <i>direct payment service provider</i> through the <i>regulated payment system</i> in question during the <i>relevant time period</i> . The calculation formula is: <i>payment system allocation</i> multiplied by <i>direct payment service provider's</i>	1 January to 31 December 2014	All transactions processed through the <i>Bacs regulated payment system</i> .	5,840,932,000
<i>C&C</i>	3,905,400		1 October 2014 to 31 March 2015	All transactions including 'in clearing' and 'out clearing' transactions for GBP, USD and EUR processed through the <i>C&C regulated payment system</i> .	471,660,000
<i>CHAPS</i>	4,014,300		1 January to 31 December 2014	All MT103 and MT202 transactions processed through the <i>CHAPS regulated payment system</i> .	36,454,000
<i>FPS</i>	4,014,300		1 June 2014 to 31 May 2015	All transactions processed through the <i>FPS regulated payment system</i> .	1,154,701,000
<i>LINK</i>	4,014,300		1 January to 31 December 2014	All transactions issued and acquired under the <i>LINK regulated payment system</i> , including GBP cash	6,298,014,000

Regulated payment system (column 1)	Payment system allocation for 2015/16 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
		<i>transaction volumes divided by payment system denominator.</i>		withdrawals, foreign currency disposes, balance enquiries, PIN management, charity donations, non-cash transactions and mobile payment transactions, but excluding 'on us' transactions. Both issuing and acquiring transactions are taken into account.	
MasterCard	4,014,300	The PSR fee is calculated for each individual acquirer and card issuer proportionally to the relevant <i>transaction volumes</i> under the <i>regulated card payment system</i> in question during the <i>relevant time period</i> . The calculation formula is: <i>payment system allocation multiplied by acquirer or card issuer's relevant transaction volumes divided by payment system denominator.</i>	1 January to 31 December 2014	All <i>transactions by acquirers and card issuers operating in the United Kingdom</i> under the <i>MasterCard regulated payment system</i> , including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals. All <i>MasterCard-branded transactions</i> are included irrespective of the <i>processing entity</i> (<i>MasterCard</i> itself, a third party <i>processing entity</i> or ' <i>on us</i> ' <i>transactions</i>).	4,612,855,000 (prior to any adjustment resulting from the application of FEES 9.2.1AR)
Visa	4,014,300		1 January to 31 December 2014	All <i>transactions by acquirers and card issuers operating in the United Kingdom</i> under the <i>Visa regulated payment system</i> , including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals. All <i>Visa-branded transactions</i> are included irrespective of the <i>processing entity</i> (<i>Visa</i> itself, a third party <i>processing entity</i> or ' <i>on us</i> ' <i>transactions</i>).	21,843,411,000 (prior to any adjustment resulting from the application of FEES 9.2.1AR)

Regulated payment system (column 1)	Payment system allocation for 2015/16 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
NICC	108,900	<p>The PSR fee is calculated for each <i>direct payment service provider</i> proportionally to its <i>shareholding</i> in the <i>operator</i> of the NICC regulated <i>payment system</i> during the <i>relevant time period</i>.</p> <p>The calculation formula is: <i>payment system allocation</i> multiplied by <i>direct payment service provider's</i> shareholding in the capital of the Belfast Bankers' Clearing Company Ltd (expressed as a percentage).</p>	31 December 2014	All shareholdings held in Belfast Bankers' Clearing Company Ltd, the <i>operator</i> of the NICC regulated <i>payment system</i> .	Not applicable

Amend the following as shown.

TP 12 Transitional provisions relating to operators of regulated payment systems direct payment service providers

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
12.1	<i>FEES</i> 9.2.2R and <i>FEES</i> 9.2.3R	R	<p>Replace the current <i>FEES</i> 9.2.2R and <i>FEES</i> 9.2.3R with the following:</p> <p><i>“An operator of a regulated payment system A direct payment service provider, acquirer or card issuer must pay its PSR fee in full to the operator (acting as collection agent for the FCA) of the regulated payment system to which the PSR fee relates by no later than 1 August 2015 10 December 2015 or, if later, within 30 days of the date of the invoice to which the PSR fee relates.”</i></p>	From 1 April 2015 until 31 March 2016	1 April 27 <u>October 2015</u>
<u>12.2</u>	<u><i>FEES</i> 9.2.2AR and <i>FEES</i> 9.2.3AR</u>	R	<p>Replace the current <i>FEES</i> 9.2.2AR and <i>FEES</i> 9.2.3R with the following:</p> <p><i>“The operator of each regulated payment system must pay the amounts collected in respect of PSR fees (acting as collection agent for the FCA) pursuant to <i>FEES</i> 9.2.4AR to the FCA by no later than 21 December 2015.”</i></p>	From 1 April 2015 until 31 March 2016	<u>27 October 2015</u>

12.3	<u>FEES 9.2.2R</u>	<u>R</u>	<p>Replace the current <u>FEES 9.2.2R</u> with the following:</p> <p><u>“If the <i>PSR fee</i> paid by a <i>direct payment service provider, acquirer or card issuer</i> for the previous <i>fee year</i> for a particular <i>regulated payment system</i> was at least £20,000, that <i>direct payment service provider, acquirer or card issuer</i> must pay:</u></p> <p>(1) <u>an amount equal to 30% of the <i>PSR fee</i> payable for the 2015/16 <i>fee year</i>, by 15 April 2016; and</u></p> <p>(2) <u>the balance of the <i>PSR fee</i> due for 2016/17 by 15 August 2016.”</u></p>	From 1 April 2016 until 31 March 2017	27 October 2015
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