

PAYMENT SERVICES INSTRUMENT 2017

Powers exercised by the Financial Ombudsman Service Limited

- A. The Financial Ombudsman Service Limited makes this instrument amending:
- (1) the rules relating to complaints handling procedures of the Financial Ombudsman Service; and
 - (2) the rules, standard terms and guidance for Voluntary Jurisdiction participants,
- as set out in Annexes A and I of this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (a) section 227 (Voluntary jurisdiction);
 - (b) paragraph 8 (Guidance) of Schedule 17 (The Ombudsman Scheme);
 - (c) paragraph 14 (The scheme operator’s rules) of Schedule 17;
 - (d) paragraph 15 (Fees) of Schedule 17;
 - (e) paragraph 18 (Terms of reference to the scheme) of Schedule 17; and
 - (f) paragraph 22 (Consultation) of Schedule 17.
- B. The making (and amendment) of the rules, guidance and standard terms in Annexes A and I by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Conduct Authority.

Powers exercised by the Financial Conduct Authority

- C. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Act:
 - (a) section 69 (Statement of policy) as applied by paragraph 1 of Schedule 6 to the Payment Services Regulations 2017 (SI/2017/752) (“the Regulations”);
 - (b) section 137A (The FCA’s general rules);
 - (c) section 137T (General supplementary powers);
 - (d) section 139A (Power of the FCA to give guidance);
 - (e) section 169(9) (Investigations etc. in support of overseas regulator) as applied by paragraph 3 of Schedule 6 to the Regulations;
 - (f) section 210 (Statements of policy) as applied by regulation 112(6) of the Regulations;
 - (g) section 226 (Compulsory jurisdiction);
 - (h) section 229 (Awards);
 - (i) section 395 (The FCA’s and PRA’s procedures) as applied by paragraph 9 of Schedule 6 to the Regulations;
 - (j) paragraph 23 of Schedule 1ZA (fees) as applied by regulation 118(1) of the Regulations; and

- (k) paragraph 13 (FCA’s rules) of Schedule 17 (The Ombudsman Scheme); and
- (2) the following regulations of the Regulations:
- (a) regulation 30(4) and (5) (Supervision of firms exercising passport rights);
 - (b) regulation 71(8) (Limits on the use of payment instruments and access to payment accounts);
 - (c) regulation 98(3) (Management of operational and security risks);
 - (d) regulation 99(2) (Incident reporting);
 - (e) regulation 105(4) (Access to bank accounts);
 - (f) regulation 109 (Reporting requirements); and
 - (g) regulation 120 (Guidance).
- D. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.
- E. The Financial Conduct Authority consents to and approves the rules, guidance and standard terms made and amended by the Financial Ombudsman Service Limited.

Commencement

- F. This instrument comes into force on 13 January 2018 except for part 2 of Annex G which comes into force on 1 April 2018.

Amendments to the Handbook

- G. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary of definitions	Annex A
Principles for Businesses (PRIN)	Annex B
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex C
General Provisions (GEN)	Annex D
Conduct of Business sourcebook (COBS)	Annex E
Banking: Conduct of Business sourcebook (BCOBS)	Annex F
Supervision manual (SUP)	Annex G
Decision Procedure and Penalties manual (DEPP)	Annex H
Dispute Resolution: Complaints sourcebook (DISP)	Annex I
Consumer Credit sourcebook (CONC)	Annex J

Amendments to material outside the Handbook

- H. The Enforcement Guide (EG) is amended in accordance with Annex K to this instrument.

- I. The Perimeter Guidance manual (PERG) is amended in accordance with Annex L to this instrument.

Notes

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

Citation

- K. This instrument may be cited as the Payment Services Instrument 2017.

By order of the Board of the Financial Ombudsman Service Ltd
11 September 2017

By order of the Board of the Financial Conduct Authority
12 September 2017

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>account servicing payment service provider</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) a <i>payment service provider</i> providing and maintaining a <i>payment account</i> for a <i>payer</i> .
<i>account information service</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) an online service to provide consolidated information on one or more <i>payment accounts</i> held by the <i>payment service user</i> with another <i>payment service provider</i> or with more than one <i>payment service provider</i> , and includes such a service whether information is provided: (a) in its original form or after processing; (b) only to the <i>payment service user</i> or to the <i>payment service user</i> and to another <i>person</i> in accordance with the <i>payment service user's</i> instructions.
<i>account information service provider</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) a <i>payment service provider</i> which provides <i>account information services</i> .
<i>acquiring payment transactions</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) a <i>payment service</i> provided by a <i>payment service provider</i> contracting with a <i>payee</i> to accept and process <i>payment transactions</i> which result in a transfer of funds to the <i>payee</i> .
<i>complaints reporting directions</i>	The directions in <i>DISP</i> 1.10B.
<i>credit transfer</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) a <i>payment service</i> for crediting a <i>payee's payment account</i> with a <i>payment transaction</i> or a series of <i>payment transactions</i> from a <i>payer's payment account</i> by the <i>payment service provider</i> which holds the <i>payer's payment account</i> , based on an instruction given by the <i>payer</i> .
<i>digital content</i>	(in accordance with regulation 2(1) of the <i>Payment Services</i>

Regulations) goods or services which are produced and supplied in digital form, the use or consumption of which is restricted to a technical device and which do not include in any way the use or consumption of physical goods or services.

<i>direct debit</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) a <i>payment service</i> for debiting the <i>payer's payment account</i> where a <i>payment transaction</i> is initiated by the <i>payee</i> on the basis of consent given by the <i>payer</i> to the <i>payee</i> , to the <i>payee's payment service provider</i> or to the <i>payer's own payment service provider</i> .
<i>EEA registered account information service provider</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) a <i>person</i> that is registered as an <i>account information services provider</i> in an <i>EEA State</i> other than the <i>United Kingdom</i> under the <i>Payment Services Directive</i> .
<i>EMD complaint</i>	any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, an <i>electronic money</i> holder about the provision of, or failure to provide, a financial service or a <i>redress determination</i> : (a) which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; and (b) concerning the rights and obligations arising under Part 5 of the <i>Electronic Money Regulations</i> .
<i>issuing payment instruments</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) a <i>payment service</i> by a <i>payment service provider</i> contracting with a <i>payer</i> to provide a <i>payment instrument</i> to initiate <i>payment orders</i> and to process the <i>payer's payment transactions</i> .
<i>payment account</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) an account held in the name of one or more <i>payment service users</i> which is used for the execution of <i>payment transactions</i> .
<i>payment initiation service</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) an online service to initiate a <i>payment order</i> at the request of the <i>payment service user</i> with respect to a <i>payment account</i> held at another <i>payment service provider</i> .
<i>payment initiation service provider</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) a <i>payment service provider</i> which provides <i>payment initiation services</i> .
<i>payment order</i>	(in accordance with regulation 2(1) of the <i>Payment Services Regulations</i>) any instruction by: (a) a <i>payer</i> ; or

(b) a *payee*,

to their respective *payment service provider* requesting the execution of a *payment transaction*.

PSD complaint

any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a *payment service user* about the provision of, or failure to provide, a financial service or a *redress determination*:

- (a) which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; and
- (b) concerning the rights and obligations arising under Parts 6 and 7 of the *Payment Services Regulations*.

registered account information service provider

(in accordance with regulation 2(1) of the *Payment Services Regulations*) an *account information service provider* registered pursuant to regulation 18 of the *Payment Services Regulations* and included by the *FCA* in the *Financial Services Register* pursuant to regulation 4(1)(c) of the *Payment Services Regulations*.

Amend the existing definitions as shown.

agent

(in relation to *payment services* or *electronic money*) a *person* who acts on behalf of a *payment institution* or an *electronic money institution* in providing *payment services*.

[Note: article 4 ~~(22)~~ (38) of the *Payment Services Directive*]

authorised payment institution

(in accordance with regulation 2(1) of the *Payment Services Regulations*);

- (a) a *person* authorised as a payment institution pursuant to regulation 6 of the *Payment Services Regulations* (conditions for authorisation as a payment institution) and included by the *FCA* in the *Financial Services Register* as an authorised payment institution pursuant to regulation 4(1)(a); of the *Payment Services Regulations* (the register of certain payment service providers); or
- (b) ~~a *person* deemed to have been granted authorisation by virtue of regulation 124 included by the *FCA* in the *Financial Services Register* pursuant to regulation 150 or 152(2), and 153(1) of the *Payment Services Regulations* (Transitional and saving provisions: authorised payment institutions).~~

branch

...

- (g) (in accordance with regulation 2(1) of the *Payment Services Regulations*) (in relation to a *payment institution*, a registered account information service provider or an EEA registered account information service provider) a place of business of ~~such a *payment institution*~~ payment service provider, other than its head office, which forms a legally dependent part of ~~the institution~~ such a provider and which carries out directly all or some of the ~~transactions~~ services inherent in its business. For the purposes of the *Payment Services Regulations*, all places of business set up in the same *EEA State* other than the *United Kingdom* by ~~an authorised payment institution~~ such a payment service provider are to be regarded as a single *branch*.

[Note: article 4 ~~(29)~~ (39) of the *Payment Services Directive*]

...

business day

- (1) (except in *DISP* 1.6.2A and *DISP* 2.8) (in relation to anything done or to be done in (including to be submitted to a place in) any part of the *United Kingdom*):

...

- (2) (except in *DISP* 1.6.2A and *DISP* 2.8) (in relation to anything done or to be done by reference to a market outside the *United Kingdom*) any *day* on which that market is normally open for business.

- (3) (in *DISP* 1.6.2A and *DISP* 2.8) any *day* on which the relevant *payment service provider* is open for business as required for the execution of a *payment transaction*.

consumer

- (1) (except as specified in this definition) any natural person acting for purposes outside his trade, business or profession. [Note: article 2 of the *Distance Marketing Directive*, article 2 of the *Unfair Terms in Consumer Contracts Directive* (93/13/EEC), article 2 of the *E-Commerce Directive*, article 4 ~~(11)~~ (20) of the *Payment Services Directive*, article 3 of the *Consumer Credit Directive* and article 4(1) of the *MCD*.]

...

credit institution

...

- (3) (in relation to the definition of *electronic money issuer* and *payment service provider*) a credit institution as defined by (1)(a) and includes a branch of the credit institution within the meaning of article 4(1)(17) of the *EU CRR* which is situated within the *EEA* and which has its head office in a territory outside the *EEA* in accordance with article 47 of the *CRD*.

EEA authorised payment institution (a) (in accordance with regulation 2(1) of the *Payment Services Regulations*) a person authorised in an *EEA State* other than the *United Kingdom* to provide *payment services* in accordance with the *Payment Services Directive* or a person entitled to provide *payment services* of the type described in paragraph 1(g) of Schedule 1 to the *Payment Services Regulations 2009* under regulation 152(5) of the *Payment Services Regulations*; and

...

Financial Services Register the public record, as required by section 347 of the *Act* (The public record), regulation 4 of the *Payment Services Regulations* (The register of certain payment service providers), regulation 4 of the *Electronic Money Regulations* and article 8 of the *MCD Order*, of every:

...

(ab) *small payment institution*;

(aba) *registered account information service provider*;

(abb) *person providing a service falling within paragraph 2(k)(i) to (iii) or paragraph (l) of Schedule 1 to the Payment Services Regulations, who has notified the FCA under regulation 38 or 39 of the Payment Services Regulations*;

(ac) *agent of an authorised payment institution* ~~or a small payment institution~~ or a registered account information service provider;

...

framework contract (in accordance with regulation 2(1) of the *Payment Services Regulations*) a contract for *payment services* which governs the future execution of individual and successive ~~payment transactions~~ *payment transactions* and which may contain the obligation and conditions for setting up a ~~payment account~~ *payment account*.

[Note: article 4 ~~(42)~~ (21) of the *Payment Services Directive*]

money remittance (in accordance with regulation 2(1) of the *Payment Services Regulations*) a service for the transmission of money (or any representation of monetary value), without any ~~payment accounts~~ *payment accounts* being created in the name of the ~~payer~~ *payer* or the ~~payee~~ *payee*, where:

(a) funds are received from a ~~payer~~ *payer* for the sole purpose of transferring a corresponding amount to a ~~payee~~ *payee* or to another *payment service provider* acting on behalf of the ~~payee~~ *payee*; or

- (b) funds are received on behalf of, and made available to, the ~~payee~~ *payee*.

[Note: article 4 ~~(13)~~ (22) of the *Payment Services Directive*]

payer

- (1) (for the purposes of FEES 9) a person 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.
- (2) (for purposes other than FEES 9)
- (a) a person who holds a payment account and initiates, or consents to the initiation of, a payment order from that payment account; or
- (b) where there is no payment account, a person who gives a payment order.

payee

- (1) (for the purposes of FEES 9) a person who is the intended recipient of transferred funds ; and
- (2) (for purposes other than FEES 9) a person who is the intended recipient of funds which have been the subject of a payment transaction.

payment institution

an authorised payment institution, an EEA authorised payment institution or a small payment institution.

[Note: articles 4(4) and ~~26(3)~~ 32(3) of the *Payment Services Directive*]

payment instrument

- (1) (in BCOBS) any personalised device or personalised set of procedures agreed between the *banking customer* and the *firm* used by the *banking customer* to initiate an instruction or request by the *banking customer* to the *firm* to make a payment.
- (2) (except in BCOBS) (in accordance with regulation 2(1) of the Payment Services Regulations) any:
- (a) personalised device; or
- (b) personalised set of procedures agreed between the payment service user and the payment service provider, used by the payment service user in order to initiate a payment order.

payment service

(in accordance with regulation 2(1) of, and Schedule 1 to, the *Payment Services Regulations*):

- (a) ~~Any~~ Subject to (b), any of the following activities when carried

out as a regular occupation or business activity:

- (i) ~~services enabling cash to be placed on a payment account~~ payment account and all of the operations required for operating a ~~payment account~~ payment account;
- (ii) ~~services enabling cash withdrawals from a payment account~~ payment account and all of the operations required for operating a ~~payment account~~ payment account;
- (iii) ~~execution of the following types of payment transaction~~ payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:
 - (A) ~~direct debits~~ execution of direct debits, including one-off ~~direct debits~~ direct debits;
 - (B) ~~payment transactions~~ execution of payment transactions ~~executed~~ through a payment card or a similar device;
 - (C) ~~credit transfers~~ execution of credit transfers, including standing orders;
- (iv) ~~execution of the following types of payment transaction~~ payment transactions where the funds are covered by a credit line for ~~the a~~ a payment service user:
 - (A) ~~direct debits~~ execution of direct debits, including one-off ~~direct debits~~ direct debits;
 - (B) ~~payment transactions~~ execution of payment transactions ~~executed~~ through a payment card or a similar device;
 - (C) ~~credit transfers~~ execution of credit transfers, including standing orders;
- (v) ~~issuing payment instruments~~ issuing payment instruments or ~~acquiring payment transactions~~ acquiring payment transactions;
- (vi) ...
- (vii) ~~execution of payment transactions where the consent of the payer to execute the payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an~~

~~intermediary between the *payment service user* and the supplier of the goods or services. [deleted]~~

(viii) ~~*payment initiation services*~~;

(ix) ~~*account information services*~~.

(b) The following activities do not constitute ~~payment services~~ *payment services*:

(i) ~~payment transactions~~ *payment transactions* executed wholly in cash and directly between the ~~payer~~ *payer* and the ~~payee~~ *payee*, without any intermediary intervention;

(ii) ~~payment transactions~~ *payment transactions* between the ~~payer~~ *payer* and the ~~payee~~ *payee* through a commercial agent authorised in an agreement to negotiate or conclude the sale or purchase of goods or services on behalf of either the ~~payer~~ *payer* or the ~~payee~~ *payee* but not both the *payer* and *payee*;

...

(iv) ~~payment transactions~~ *payment transactions* consisting of non-professional cash collection and delivery as part of a not-for-profit or charitable activity;

(v) services where cash is provided by the ~~payee~~ *payee* to the ~~payer~~ *payer* as part of a ~~payment transaction~~ *payment transaction* for the purchase of goods or services following an explicit request by the ~~payer~~ *payer* immediately before the execution of the ~~payment transaction~~ *payment transaction*;

(vi) ~~money~~ cash-to-cash currency exchange ~~business~~ consisting of ~~cash-to-cash~~ operations where the funds are not held on a ~~payment account~~ *payment account*;

(vii) ~~payment transactions~~ *payment transactions* based on any of the following documents drawn on the *payment service provider* with a view to placing funds at the disposal of the ~~payee~~ *payee*:

...

(viii) ~~payment transactions~~ *payment transactions* carried out within a payment or securities settlement system between *payment service providers* and settlement agents, central counterparties, clearing houses, central banks or other participants in the system;

(ix) ~~payment transactions~~ payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by ~~persons~~ referred to in ~~(h)~~ (viii) or by investment firms, ~~full credit institutions~~, collective investment undertakings, asset management companies providing investment services or by any other entities allowed to have the custody of financial instruments;

(x) services provided by technical service providers, which support the provision of payment services, without the provider entering at any time into possession of the funds to be transferred, excluding payment initiation services or account information services but including:

...

(xi) services based on ~~instruments~~ specific payment instruments that can be used ~~to acquire goods or services~~ only in a limited way and meet one of the following conditions:

(A) allow the holder to acquire goods or services only in or on the issuer's premises; or

(B) under a commercial agreement with the issuer, either within a limited network of service providers or for a limited range of goods or services, are issued by a professional issuer and allow the holder to acquire goods or services only within a limited network of service providers which have direct commercial agreements with the issuer; or

(C) may be used only to acquire a very limited range of goods or services; or

(D) are valid only in a single EEA state, are provided at the request of an undertaking or a public sector entity, and are regulated by a national or regional public authority for specific social or tax purposes to acquire specific goods or services from suppliers which have a commercial agreement with the issuer.

~~and for these purposes the "issuer" is the person who issues the instrument in question;~~

(xii) ~~payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to~~

~~be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the *payment service user* and the supplier of the goods and services; *payment transactions* resulting from services provided by a provider of electronic communications networks or services, including transactions between *persons* other than that provider and a subscriber, where those services are provided in addition to electronic communications services for a subscriber to the network or service, and where the additional service is:~~

- ~~(A)~~ for purchase of *digital content* and voice-based services, regardless of the device used for the purchase or consumption of the *digital content*, and charged to the related bill; or
- ~~(B)~~ performed from or via an electronic device and charged to the related bill for the purchase of tickets or for donations to organisations which are registered or recognised as charities by public authorities, whether in the *United Kingdom* or elsewhere,

~~provided that the value of any single *payment transaction* does not exceed £40, and the cumulative value of *payment transactions* for an individual subscriber in a *month* does not exceed £240;~~

- ~~(A)~~ *payment transactions* *payment transactions* carried out
~~(xiii)~~ between *payment service providers*, or their agents or *branches*, for their own account;
- ~~(B)~~ *payment transactions* *payment transactions* and related
~~(xiv)~~ *services* between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a *payment service provider* other than an undertaking belonging to the same group;
- ~~(C)~~ cash withdrawal services by providers to withdraw cash
~~(xv)~~ by means of provided through automated automatic teller machines where the provider is acting on behalf of one or more card issuers, which are is not party to the *framework contract* with the customer withdrawing money from a ~~payment account~~ *payment account*, where ~~no~~ and does not conduct any other ~~payment service~~ *payment service* is conducted by the provider.

[Note: articles 3 and 4(3) of, and the Annex 1 to, the *Payment Services*

Directive]

payment service provider

- (1) (except in *DISP*) (in accordance with regulation 2(1) of the *Payment Services Regulations*) any of the following persons when they carry out a *payment service*:
- (a) an *authorised payment institution*;
 - (b) a *small payment institution*;
 - (ba) a registered account information service provider;
 - (c) an *EEA authorised payment institution*;
 - (ca) an *EEA registered account information service provider*,
 - (d) a ~~full~~ *credit institution*;
 - (e) an *electronic money issuer*;
 - (f) the Post Office Limited;
 - (g) the Bank of England, the European Central Bank and the national central banks of *EEA States* other than the *United Kingdom*, other than when acting in their capacity as a monetary authority or carrying out other functions of a public nature; and
 - (h) government departments and local authorities, other than when carrying out functions of a public nature.

[Note: article 1(1) of the *Payment Services Directive*]

- (2) (in *DISP* ~~and FEES 5.5~~) as in (1) but excluding a ~~full~~ *credit institution*.

...

payment service user

(in accordance with regulation 2(1) of the *Payment Services Regulations*) a *person* when making use of a *payment service* in the capacity of either ~~payer~~ payer, or ~~payee~~ payee, or both.

[Note: article 4(10) of the *Payment Services Directive*]

Payment Services Directive

Directive ~~2007/64/EC~~ (EU) 2015/2366 of the European Parliament and of the Council of ~~13th November 2007~~ 25 November 2015 on payment services in the internal market amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

Payment Services Regulations

with respect to an activity carried on before 13 January 2018 the Payment Services Regulations 2009 (SI 2009/209), and with respect to

an activity carried on on or after 13 January 2018 the Payment Services Regulations 2017 (SI 2017/752).

*payment
transaction*

- (1) (for the purposes of FEES 9) an action of transferring funds, initiated by the payer or on its behalf or by the payee, irrespective of any underlying obligations between the payer and the payee.
- (2) (for purposes other than FEES 9) an act initiated by the payer or payee, or on behalf of the payer, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and payee.

*small payment
institution*

(in accordance with regulation 2(1) of the *Payment Services Regulations*):

- (a) a person registered as a small payment institution pursuant to regulation 14 of the *Payment Services Regulations* and included by the FCA in the *Financial Services Register* pursuant to regulation 4(1)(b) of the *Payment Services Regulations* (the register of certain payment service providers);
or
- (b) a person included by the FCA in the *Financial Services Register* pursuant to regulations 151(1) and 153(1) of the *Payment Services Regulations* (transitional provisions).

Annex B

Amendments to the Principles for Businesses (PRIN)

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

3 Rules about application

3.1 Who?

...

- 3.1.8 G The *Principles* will not apply to the extent that they purport to impose an obligation which is inconsistent with the *Payment Services Directive*, the *Consumer Credit Directive* or the *Electronic Money Directive*. For example, there may be circumstances in which *Principle 6* may be limited by the harmonised conduct of business obligations applied by the *Payment Services Directive* and the *Electronic Money Directive* to *credit institutions* (see Parts ~~5 and 6~~ 6 and 7 of the *Payment Services Regulations* and Part 5 of the *Electronic Money Regulations*) or applied by the *Consumer Credit Directive* (see, for example, the information requirements in the Consumer Credit (Disclosure of Information) Regulations 2010 (SI 2010/1013)).

Annex C

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

In this Annex, underlining indicates new text.

1 Annex 1 Detailed application of SYSC

...

Part 3	Tables summarising the application of the common platform requirements to different types of firm			
...				
Provision SYSC 9	COLUMN A Application to a common platform firm other than to a UCITS investment firm	COLUMN A+ Application to a UCITS management company	COLUMN A++ Application to a full-scope UK AIFM of an authorised AIF	COLUMN B Application to all other firms apart from insurers, managing agents, the Society, full-scope UK AIFMs of unauthorised AIFs, MiFID optional exemption firms and third country firms
...				
<u>SYSC 9.2 G</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>Applicable to credit institutions only, not including incoming EEA firms which have permission for cross border services only and which do not carry on regulated activities in the United Kingdom.</u>

...

After SYSC 9.1 (General rules on record-keeping) insert the following new section. The text is all new and is not underlined.

9.2 Credit institutions providing account information services or payment initiation services

- 9.2.1 R A *credit institution* must keep records of any *account information services* and *payment initiation services* it provides.
- 9.2.2 R A *UK firm* must keep the records required by SYSC 9.2.1R in respect of *account information services* and *payment initiation services* provided anywhere in the *EEA*. The records must make clear in which *EEA State* those services were provided.
- 9.2.3 R An *EEA firm* must keep the records required by SYSC 9.2.1R in respect of *account information services* and *payment initiation services* provided in the *UK*.
- 9.2.4 R The records required by SYSC 9.2.1R must be sufficient to enable the *credit institution* to provide to the *FCA*, upon request, the following information:
- (1) The number of different *payment accounts* that the *credit institution* has accessed for the purposes of providing *account information services*.
 - (2) The number of *payment service users* who have used the *account information services* provided by the *credit institution*.
 - (3) The number of different *payment accounts* that the *credit institution* has accessed for the purposes of providing *payment initiation services*.
 - (4) The number of *payment transactions* the *credit institution* has initiated when providing *payment initiation services*.
- 9.2.5 R The records required by SYSC 9.2.1R must be sufficient to enable the *credit institution* to provide the *FCA* with the information specified in SYSC 9.2.4R for each calendar year in the previous five years, except that there is no requirement to record this information for any period prior to 13 January 2018.
- 9.2.6 G
- (1) When keeping records in accordance with SYSC 9.2.4R (1) and (3), *credit institutions* should count each individual payment account once, even where it has been accessed multiple times.
 - (2) When keeping records in accordance with SYSC 9.2.4R (2), *credit institutions* should count each customer once (including where the customer has used the *account information services* multiple times).

- 9.2.7 G *Credit institutions providing account information services and payment initiation services* are also required to notify the *FCA* in accordance with *SUP 15.8.12R*.

Annex D

Amendments to the General Provisions (GEN)

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

5 Regulators' logos and the Key facts logo

5.1 Application and Purpose

Application

5.1.1 G This chapter contains:

... (1) *guidance for firms, authorised payment institutions, registered account information service providers and authorised electronic money institutions and their appointed representatives, agents or tied agents on the circumstances in which the FCA permits them to reproduce the FSA and FCA logos;*

...

...

7 Charging consumers for telephone calls

7.1 Application

...

7.1.4 R This chapter does not apply ~~for~~ to telephone lines which:

(1) *enable payment service users to request information to which paragraph (2) of regulation ~~48~~ 56 of the Payment Services Regulations applies; or*

...

...

Sch 4 Powers exercised

...

4.2G Powers to make rules

The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FCA</i> to make the rules in <i>GEN</i> :	
	...

	Section 226 (Compulsory jurisdiction) (including as applied by regulation 125 <u>regulations 117 and 133</u> of the <i>Payment Services Regulations</i> and article 26(1) (Extension of the compulsory jurisdiction of the Financial Ombudsman Scheme to registered consumer buy-to-let mortgage firms) of the <i>MCD Order</i>)
	...
	Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority) (including as applied by article 25 (Application of provisions of the Act to the FCA in respect of its supervision of consumer buy-to-let mortgage firms) of the <i>MCD Order</i>), and by regulation 15A of the <i>ADR Regulations</i>
	<u>Paragraph 23 (fees) of Schedule 1ZA as applied by regulation 118(1) of the <i>Payment Services Regulations</i></u>
	...

Sch 4.3G

	The following additional powers have been exercised by the <i>FCA</i> to make the <i>rules</i> in <i>GEN</i> :
	...
	Regulations 82 <u>109</u> (Reporting requirements), 86 <u>112</u> (Proposal to take disciplinary measures) and 92 <u>118</u> (Costs of supervision) of and paragraph 1 of Schedule 5 <u>6</u> (Disciplinary powers) to the <i>Payment Services Regulations</i>

...

Sch 4.5G Powers to issue statements

	The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FCA</i> to issue the parts of the statements in <i>GEN</i> :
	...
	Section 69 (Statement of policy) (including as applied by paragraph 1 of Schedule 5 <u>6</u> to the <i>Payment Services Regulations</i> , paragraph 1 <u>paragraph 1</u> of Schedule 3 to the <i>Electronic Money Regulations</i> , regulation 29(1) of the Legal Aid, Sentencing <u>Sentencing</u> and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (SI 2013/1635) and regulation 28(1) of the <i>Immigration Regulations</i>
	...
	Section 169(9) (Investigations etc in support of overseas regulator) (including as applied by paragraph 3 of Schedule 5 <u>6</u> to the <i>Payment Services Regulations</i> and paragraph 3 <u>paragraph 3</u> of Schedule 3 to the <i>Electronic Money Regulations</i> and by regulation 71(2) of the <i>AIFMD UK regulation</i>

...
Section 210 (Statements of policy) (including as applied by regulation 86 <u>112</u> (6) of the <i>Payment Services Regulations</i> , regulation 53(6) of the <i>Electronic Money Regulations</i> , regulation 71(3) of the <i>AIFMD UK regulation</i> , regulation 29(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (SI 2013/1635), regulation 28(2) (Statements of policy) of the <i>Immigration Regulations</i> and article 23(4) (Application of provisions of the Act to registered consumer buy-to-let mortgage firms) of the <i>MCD Order</i>)
...
Section 395 (The FCA's and PRA's procedures) (including as applied by paragraph 7 <u>9</u> of Schedule 5 <u>6</u> to the <i>Payment Services Regulations</i> , paragraph 8 of Schedule 3 to the <i>Electronic Money Regulations</i> , regulation 30(7) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (SI 2013/1635), article 3(11) of the <i>Financial Services Act 2012</i> (Consumer Credit) Order 2013, regulation 29 (Application of Part 26 of the 2000 Act) of the <i>Immigration Regulations</i> and article 24(2) (Application of procedural provisions of the Act) of the <i>MCD Order</i>)
...

Sch 4.6G

The following additional powers and related provisions have been exercised by the <i>FCA</i> to issue the parts of the statements in <i>GEN</i> :
...
Regulation 93 <u>120</u> (Guidance) of the <i>Payment Services Regulations</i>
...

...

Sch 4.8G

The following additional powers and related provisions have been exercised by the <i>FCA</i> in <i>GEN</i> to direct, require or specify:
...
Articles 18 (Obligations of registered consumer buy-to-let mortgage firms) and 19 (Power to direct registered consumer buy-to-let mortgage firms to take appropriate action) of the <i>MCD Order</i>
<u>Regulations 30(4) and (5) (Supervision of firms exercising passport rights), 71(8) (Limits on the use of payment instruments and access to payment accounts), 98(3) (Management of operational and security risks), 99(2) (Incident reporting), 105(4) (Access to bank accounts) and 109 (Reporting</u>

	requirements) of the <i>Payment Services Regulations</i>
--	--

...

Sch 4.12G

The following additional powers have been exercised by the *FCA* to give the other guidance in *GEN*:

	...
	Regulation 93 <u>120</u> (Guidance) of the <i>Payment Services Regulations</i>
	...

...

Annex E

Amendments to the Conduct of Business sourcebook (COBS)

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

5 Distance communications

5.1 The distance marketing disclosure rules

...

Exception: contracts for payment services

...

- 5.1.3B G Where a *distance contract* covers both *payment services* and *non-payment services*, this exception applies only to the ~~payment services~~ payment services aspects of the contract. A *firm* taking advantage of this exception will need to comply with the information requirements in Part ~~5~~ 6 of the *Payment Services Regulations*.

Annex F

Amendments to the Banking: Conduct of Business sourcebook (BCOBS)

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

1 Application

1.1 General application

...

1.1.3 R Except as provided for in *BCOBS* 1.1.4R, this sourcebook does not apply to:

- (1) *payment services* where ~~Part 5 and 6~~ Parts 6 and 7 of the *Payment Services Regulations* apply; or

...

1.1.4 R (1) Chapters 2, 2A, 5 and 6 of *BCOBS* (except for *BCOBS* ~~5.1.11R~~ 5.1.10AR to *BCOBS* 5.1.19R) and *BCOBS* 4.3 apply to *payment services* where ~~Parts 5 and 6~~ and 7 of the *Payment Services Regulations* apply.

- (2) Chapter 3 of *BCOBS* applies to *payment services* where ~~Parts 5 and 6~~ and 7 of the *Payment Services Regulations* apply with the modifications set out in *BCOBS* 3.1.2R(2).

...

1.1.4A G Guidance on the application of the *Payment Services Regulations* can be found in *PERG* 15.

...

3 Distance communications

3.1 Distance marketing

...

Exception: contracts for payment services

3.1.13 G Where a *distance contract* covers both *payment services* and *non-payment services*, the exception in *BCOBS* 3.1.2R(2) applies only to the *payment services* aspects of the contract. A *firm* taking advantage of this exception will need to comply with the information requirements in ~~Part 5~~ 6 of the *Payment Services Regulations*.

...

4 Information to be communicated to banking customers

4.1 Enabling banking customers to make informed decisions

...

4.1.4 G The appropriate information *rule* applies before a *banking customer* is bound by the terms of the contract. It also applies after a *banking customer* has become bound by them. In order to meet the requirements of the appropriate information *rule*, information provided or made available by a *firm* to a *banking customer* should include information relating to:

...

(8) ~~the terms of any compensation scheme if the *firm* cannot meet its obligations in respect of the *retail banking service*; [deleted]~~

...

...

5 Post sale

5.1 Post sale requirements

Service

...

5.1.3 G ~~To the extent that it relates to a *retail banking service*, a *firm* may find it helpful to take account of the British Bankers' Association "A Statement of Principles: Banks and businesses — working together". [deleted]~~

...

Security of electronic payments

5.1.10A R A *firm* that allows a *banking customer* to make electronic payments must consider the risk of fraud and put in place appropriate procedures and technical safeguards to ensure that such payments can be carried out in a safe and secure manner.

5.1.10B G Such procedures should include authentication procedures for the verification of the identity of the *banking customer* or the validity of the use of a particular *payment instrument*, proportionate to the risks involved. Where appropriate, *firms* may wish to consider the adoption of 'strong customer authentication', as defined in the *Payment Services Regulations*, and specified in regulatory technical standards adopted by the European Commission under article 98 of the *Payment Services Directive*.

...

Banking customer's liability for unauthorised payments

- 5.1.12 R (1) Subject to (2) and (3), a *firm* may, in an agreement for a *retail banking service*, provide for a *banking customer* to be liable for an amount up to a maximum of ~~£50~~ £35 for losses in respect of unauthorised payments arising:
- (a) from the use of a lost or stolen *payment instrument*; or
 - (b) ~~where the *banking customer* has failed to keep the personalised security features of the *payment instrument* safe,~~ from the misappropriation of the *payment instrument*.

(1A) Paragraph (1) does not apply where:

- (a) the loss, theft or misappropriation of the *payment instrument* was not detectable by the *banking customer* prior to the payment; or
- (b) the loss was caused by acts or omissions of an *employee* or *branch* of the *firm* or of an entity which carried out activities on behalf of the *firm*.

...

...

Non-execution or defective execution of payments

...

- 5.1.15 R ...
- (2) Where incorrect *payment routing information* has been provided to a *firm* in respect of a payment:
- (a) *BCOBS* 5.1.16R and *BCOBS* 5.1.17R do not apply in relation to that payment; ~~and~~
 - (b) the *firm* must make reasonable efforts to recover the funds involved in the transaction; and
 - (c) if the *firm* is unable to recover the funds it must, on receipt of a written request, provide to the *banking customer* all available relevant information in order for the *banking customer* to claim repayment of the funds.
- (2A) A *firm* that is in receipt of funds as the result of the provision of incorrect *payment routing information* by a *banking customer* must co-operate with the *firm* that is seeking to recover the funds, in particular by providing all relevant information for the collection of

the funds.

...

5.1.15A G For the purposes of *BCOBS* 5.1.15R ‘relevant information’ will include the name of the account holder into whose account the funds have been paid, and an address at which documents can be effectively serviced on that *person*.

5.1.15B G *BCOBS* 5.1.15R (2) (c) and *BCOBS* 5.1.15R (2A) may require a *firm* to disclose personal data about a customer to whom it provides a bank account where funds have been transferred to that account as a result of incorrect payment routing information. When providing information to the customer to ensure the fair and transparent processing of personal data as required by applicable data protection legislation a *firm* should take account of its potential obligations under *BCOBS* 5.1.15R(2)(c) and *BCOBS* 5.1.15R(2A).

...

TP 1 Transitional provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Materials to which the transitional provision applies		Transitional provision	Transitional provisions: dates in force	Handbook provisions: coming into force
...					
<u>8</u>	<u><i>BCOBS</i> 5.1.10BG</u>	<u>R</u>	<u>A <i>firm</i> need not have regard to the guidance referred to in column (2) in interpreting and applying <i>BCOBS</i> 5.1.10AR until 18 months after the date on which the regulatory technical standards adopted under article 98 of the <i>Payment Services Directive</i> come into force.</u>	<u>13 January 2018 until the date specified in column (4)</u>	<u>13 January 2018</u>

Annex G

Amendments to the Supervision manual (SUP)

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

Part 1: Comes into force on 13 January 2018

15 Notifications to the FCA

15.1 Application

...

15.1.3B D The directions and guidance in SUP 15.14 apply to *payment service providers* as set out in that section.

What?

15.1.4R ...

15.1.4AR D SUP 15.8 and SUP 15.14 apply with respect to the carrying on of *payment services* and other activities to which the *Payment Services Regulations* apply.

...

15.2 Purpose

15.2.1 G ...

15.2.1A G *Payment service providers* are required to provide the FCA with such information as the FCA may direct in respect of their provision of *payment services* or compliance with the requirements imposed by or under Parts 2 to 7 or regulation 105 of the *Payment Services Regulations*. The purpose of SUP 15.8 is to request information from *full credit institutions* where they provide (or propose to provide) *account information services* or *payment initiation services*. In addition to this general requirement, *payment service providers* are required under the *Payment Services Regulations* to notify the FCA on the occurrence of certain specified events. The purpose of SUP 15.14 is to provide directions and guidance to *payment service providers* on the form, content and timing of notifications required under the *Payment Services Regulations*.

15.2.2 G This chapter sets out:

...

- (4) *rules* requiring a *firm* to ensure that information provided to the FCA is accurate and complete; ~~section 398~~ section 398 of the Act makes it

an offence knowingly or recklessly to provide the *FCA* with information which is false or misleading in a material particular, in purported compliance with any requirement imposed by or under the *Act*; the purpose of the *rules* in *SUP* 15.6 is to ensure that *firms* take due care to ensure the accuracy of information and to require them to ensure that information is not only accurate but also complete; ~~and~~

- (5) material (in *SUP* 15.10 (Notification of suspicious transactions or orders (market abuse)) which makes reference to the provisions of the *Market Abuse Regulation* that detail requirements on the reporting of transactions or orders about which there is reasonable suspicion of *market abuse*; and
- (6) directions and guidance for a *payment service provider* on the form, content and timing of notifications required to be submitted to the *FCA* in accordance with or in relation to the *Payment Services Regulations*.

...

15.8 Notification in respect of particular products and services

...

15.8.11 ...

Credit institutions providing account information services or payment initiation services

15.8.12 D Unless *SUP* 15.8.13D applies, a *full credit institution* must notify the *FCA* before it starts to provide an *account information service* or a *payment initiation service*.

15.8.13 D A *full credit institution* which:

- (1) prior to 13 January 2018, started to provide a service which, if provided on or after 13 January 2018, would have constituted an *account information service* or a *payment initiation service*; and
- (2) continues to provide an *account information service* or a *payment initiation service* on 13 January 2018,

must notify the *FCA* that it is providing *account information services* or *payment initiation services* by 10 February 2018.

15.8.14 D A notification required under *SUP* 15.8.12 or *SUP* 15.8.13 must include a description of the *account information service* or *payment initiation service* that is being or is to be provided.

15.8.15 D The notification required under *SUP* 15.8.12 or *SUP* 15.8.13 must be made in accordance with the requirements in *SUP* 15.7 (Form and method of

notification).

...

After SUP 15.13 (Notification by CBTL firms) insert the following new section. The text is not underlined.

15.14 Notifications under the Payment Services Regulations

Application

15.14.1 G This section applies to *payment service providers*.

Purpose

15.14.2 G The purpose of this section is to give directions and guidance to *payment service providers* relating to the form, content and timing of notifications required under the *Payment Services Regulations*.

Notification by credit institutions under regulation 105

15.14.3 D A *full credit institution* to which regulation 105 of the *Payment Services Regulations* applies must notify the *FCA* if it refuses a request for access to *payment account* services from:

- (1) a *person* falling within paragraphs (1)(a) to (e) (excluding (1)(d)) of the *Glossary* definition of *payment service provider*; or
- (2) an applicant for authorisation or registration as such a *payment service provider*.

15.14.4 G References in this section to a refusal of a request for access to *payment account* services include a withdrawal or termination of access to such services.

15.14.5 G A notification required by regulation 105(3) of the *Payment Services Regulations* and SUP 15.14.3D must include duly motivated reasons for the refusal.

15.14.6 D Unless the *FCA* directs otherwise, a notification required by regulation 105(3) of the *Payment Services Regulations* and SUP 15.14.3D must be submitted by the *full credit institution* to the *FCA*:

- (1) in the form specified in SUP 15 Annex 9D;
- (2) by electronic means made available by the *FCA*; and
- (3) at the same time as it informs the *person* referred to in SUP 15.14.3D(1) or (2) of its refusal.

15.14.7 D If for any reason the *full credit institution* does not notify the *person*

referred to in *SUP* 15.14.3D(1) or (2) of its refusal, the *full credit institution* must submit the notification required by *SUP* 15.14.3D immediately following the decision by the *full credit institution* to refuse access.

15.14.8 G The direction in *SUP* 15.14.6D will not apply if the *FCA* gives a different direction to a specific *credit institution*, in the light of the particular circumstances surrounding a refusal of access to *payment account* services, about how to notify the *FCA*. The *FCA* is likely to be minded to do so where a *credit institution* decides to withdraw access to a large number of *persons* falling within paragraphs (1)(a) to (e) (excluding (1)(d)) of the *Glossary* definition of *payment service provider* simultaneously, such that complying with *SUP* 15.14.6D becomes impractical, and provides advance notice of the proposed withdrawal to their usual supervisory contact at the *FCA*. For these purposes, fewer than ten *persons* is unlikely to be considered a large number.

15.14.9 G *Credit institutions* are reminded of the general notification requirements in *SUP* 15.3, including the obligation to notify the *FCA* as soon as they become aware of any matter (including a matter which may occur in the foreseeable future) which could affect their ability to continue to provide adequate services to their *customers* and which could result in serious detriment to a *customer* of the *credit institution* (*SUP* 15.3.1R(3)).

Notification by account servicing payment service providers under regulation 71

15.14.10 D An *account servicing payment service provider* to which regulation 71(8)(c) of the *Payment Services Regulations* applies must notify the *FCA* if it denies an *account information service provider* or a *payment initiation service provider* access to a *payment account* under regulation 71(7).

15.14.11 D A notification required by regulation 71(8)(c) of the *Payment Services Regulations* and *SUP* 15.14.10D must include details of the case and the reasons for denying access.

15.14.12 D A notification required by regulation 71(8)(c) of the *Payment Services Regulations* and *SUP* 15.14.10D must be submitted by the *account servicing payment service provider* to the *FCA*:

- (1) in the form specified in *SUP* 15 Annex 10
- (2) by electronic means made available by the *FCA*; and
- (3) immediately after the first occasion on which it denies the *account information service provider* or the *payment initiation service provider* in question access to a *payment account*.

15.14.13 G Where:

- (1) an *account servicing payment service provider* denies access to more than one *payment account* or to a *payment account* on multiple

consecutive occasions; and

- (2) these denials of access:
- (a) are in respect of the same *account information service provider* or *payment initiation service provider*; and
 - (b) arise out of the same facts and happen for the same reasons,

the *account servicing payment service provider* is required to submit only a single notification in respect of them under regulation 71(8)(c) of the *Payment Services Regulations* and *SUP 15.14.10D*.

15.14.14 G Where an *account servicing payment service provider* has already submitted a notification in accordance with regulation 71(8)(c) of the *Payment Services Regulations* and *SUP 15.14.10D* and continues to deny access to a *payment account*, it is not required to notify the *FCA* of a consecutive denial of access that happens after the original notification was sent if it:

- (1) is in respect of the same *account information service provider* or *payment initiation service provider*; and
- (2) arises out of the same facts and happens for the same reasons.

15.14.15 D An *account servicing payment service provider* that has previously submitted a notification in accordance with regulation 71(8)(c) of the *Payment Services Regulations* and *SUP 15.14.10D* must notify the *FCA* if it subsequently restores access to the *payment account* for the *account information service provider* or *payment initiation service provider* that was the subject of the original notification, unless it indicated in the first notification that it intended to immediately restore access and access was so restored.

15.14.16 D A notification required under *SUP 15.14.15D* must be submitted by the *account servicing payment service provider* to the *FCA*:

- (1) in the form specified in *SUP 15 Annex 10*;
- (2) by electronic means made available by the *FCA*; and
- (3) immediately after it restores access to the *payment account(s)* for the *account information service provider* or *payment initiation service provider*.

15.14.17 G For the purposes of *SUP 15.14.12D* and *SUP 15.14.16D* we would expect the *account servicing payment service provider* to complete and submit the notification as quickly as possible.

Notification of major operational or security incidents under regulation 99

15.14.18 G Regulation 99(1) of the *Payment Services Regulations* provides that, if a

payment service provider becomes aware of a major operational or security incident, the *payment service provider* must, without undue delay, notify the *FCA*. The purpose of this section is to direct the form and manner in which such notifications must be made and the information they must contain, in exercise of the power in regulation 100(2) of the *Payment Services Regulations*.

- 15.14.19 G The *EBA* has issued Guidelines on incident reporting under the *Payment Services Directive* that specify the criteria a *payment service provider* should use to assess whether an operational or security incident is major and needs to be reported to the *FCA*. These Guidelines also specify the format for the notification and the procedures the *payment service provider* should follow.
- 15.14.20 D *Payment service providers* must comply with the *EBA*'s Guidelines on incident reporting under the *Payment Services Directive* as issued on 27 July 2017 where they are addressed to *payment service providers*.
- 15.14.21 D In particular, a notification required by regulation 99(1) of the *Payment Services Regulations* must be submitted by the *payment service provider* to the *FCA*:
- (1) within the timescales and at the frequencies specified in the *EBA*'s Guidelines on incident reporting under the *Payment Services Directive*;
 - (2) in writing on the form specified in *SUP 15 Annex 11D* ; and
 - (3) by such electronic means as the *FCA* may specify.
- 15.14.22 G *Payment service providers* should note that article 16(3) of Regulation (EU) No 1093/2010 also requires them to make every effort to comply with the *EBA*'s Guidelines on incident reporting under the *Payment Services Directive*.
- 15.14.23 G Where the electronic means of submission of notifications is known not to be available or operated at the time the incident is first detected, the notification should be sent to the *FCA* as soon as the electronic means of submission becomes available and operational again. Unless the *FCA* has informed a specific *payment service provider* that electronic means of submission are also available to it and operated at other times, the electronic means of submission are available and operated during normal operating hours, as specified by the *FCA*.
- 15.14.24 G The *EBA*'s Guidelines on incident reporting under the *Payment Services Directive* contain guidelines on the completion of the form specified in *SUP 15 Annex 11D*. *Payment service providers* should use the same form in all reports concerning the same incident. *Payment service providers* may not have sufficient information to complete all parts of the form in the initial report. They should complete the form in an incremental manner and on a best effort basis as more information becomes readily available in the

course of their internal investigations.

General provisions

- 15.14.25 D *SUP 15.6.1R to SUP 15.6.6G* (Inaccurate, false or misleading information) apply to *payment service providers* that are required to make notifications in accordance with this section as if a reference to *firm* in *SUP 15.6.1R to SUP 15.6.6G* were a reference to the relevant category of *payment service provider* and a reference to a *rule* were a reference to the directions in this section.
- 15.14.26 G *Payment service providers* are reminded that regulation 142 of the *Payment Services Regulations* (Misleading the FCA or the Payment Systems Regulator) makes it an offence for a *person* to knowingly or recklessly provide the FCA with information which is false or misleading in a material particular in purported compliance with the directions given in this section or any other requirement imposed by or under the *Payment Services Regulations*.
- 15.14.27 G If a *payment service provider* fails to comply with the directions in this section then the notification is invalid and there may be a breach of the regulation of the *Payment Services Regulations* or the direction that required the notification to be given.
- 15.14.28 G The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contain provisions relating to the service of documents on the FCA. They do not apply to notifications required under this section because of the specific directions given in this section.

15 Annex 1R **Application of SUP 15 to incoming EEA firms and, incoming Treaty firms, EEA authorised payment institutions and EEA authorised electronic money institutions**

...	
3.	For any other <i>incoming EEA firm</i> or <i>incoming Treaty firm</i> , <u><i>EEA authorised payment institution or EEA authorised electronic money institution</i></u> , SUP 15 applies as set out in the following table.

Applicable sections		Application
...		
<i>SUP 15.11</i>	...	
<u><i>SUP 15.14</i></u>	<u>Notifications under the <i>Payment Services</i></u>	<u>Apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the</u>

	<u>Regulations</u>	<u>payment service provider's Home State regulator</u>
--	--------------------	--

- 15 Annex
1AR**
- (1) *SUP 15 does not apply to an incoming EEA firm which has permission for cross border services only and which does not carry on regulated activities in the United Kingdom.*
- (2) ...
- (3) SUP 15 does not apply to an EEA authorised payment institution or an EEA authorised electronic money institution which exercises passport rights in the United Kingdom on a cross border services basis only.

...

Insert the following new Annexes after SUP 15 Annex 8R Form G: The Retail Investment Adviser Complaints Notifications Form. The text is not underlined.

15 Annex Form NOT002 Payment Account Service rejections or withdrawals 9D (notification by credit institutions under regulation 105)

NOT002 - Notification of refusal or withdrawal of access to payment account services to PSPs and prospective PSPs (regulation 105 PSRs 2017)

Firm details

1 Who should the FCA contact at the credit institution in relation to this notification?

A	B	C	D
Name	Position	Telephone number	Email

Notification of refusal or withdrawal of access to payment account services

2 Details of the payment service provider (PSP) or prospective PSP refused access to payment account services

A	B	C
FRN	Name of PSP or prospective PSP	Head office address

3 Please confirm the regulatory status of the PSP that was refused access to payment account services or has had access withdrawn

A
[select]

"authorised or registered by the FCA or another EEA regulator"
"a person that has submitted an application for registration or authorisation"

4 What products and/or services was the PSP or prospective PSP accessing (in the case of withdrawal) or seeking access to?

5 safeguarding account

A	B
yes/no	operational account (i.e. business current account)

6 payment accounts (for the purposes of making transactions on behalf of customers)

C	D
yes/no	other

7 What payment services did the PSP or prospective PSP provide or intend to provide?

A
[select one or more]

"(a) services enabling cash to be placed on a payment account and all of the operations required for operating a payment account;"
"(b) services enabling cash withdrawals from a payment account and all of the operations required for operating a payment account;"
"(c) the execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider—
(i) execution of direct debits, including one-off direct debits;
(ii) execution of payment transactions through a payment card or a similar device;
(iii) execution of credit transfers, including standing orders;"
"(d) the execution of payment transactions where the funds are covered by a credit line for a payment service user—
(i) execution of direct debits, including one-off direct debits;
(ii) execution of payment transactions through a payment card or a similar device;
(iii) execution of credit transfers, including standing orders;"
"(e) issuing payment instruments or acquiring payment transactions;"
"(f) money remittance;"
"(g) payment initiation services;"
"(h) account information services."

8 When was a decision made to refuse or withdraw access?

A
[date]

9 Was access refused or withdrawn?

Yes/no

10 Was the refusal following receipt of an application?

Yes/no

11 OR, was the PSP or prospective PSP told it was not eligible to apply or was not permitted to progress its application in a timely manner?

Yes/no

12 Withdrawn (please answer questions 13 and 14)

A	B
yes/no	Refused (please answer questions 15 - 19)

13 On what date was the decision to withdraw access communicated to the PSP?
14 What period of notice was given if access was withdrawn?

A
[date]

15 Did the credit institution provide its criteria to the PSP or prospective PSP enquiring about access to payment account services?
16 If not, please explain why no criteria were provided

yes/no

17 Was the decision to refuse access communicated to the PSP or prospective PSP seeking access?
18 If so, on what date was the decision communicated?
19 If not, please explain why the decision was not communicated

yes/no
[date]

20 What were the duly motivated reasons for refusing or withdrawing access (as per Regulation 105(4) PSRs 2017)? Where appropriate, please make reference to the criteria against which the access seeker was assessed.

A

21 Please describe the process that was followed to make the decision (for example, the person(s) with responsibility for making the decision, any deadlines that were applied, and the arrangements and/or procedures that were followed when considering whether to refuse or withdraw access)

--

22 Were the *reasons* for the decision communicated to the PSP or prospective PSP seeking access or having access withdrawn?

yes/no

23 Was the PSP or prospective PSP provided with an opportunity to respond to the credit institutions' concerns or rectify any identified risks before the decision to refuse/ withdraw access was made?

yes/no

24 If not, please explain why no opportunity was provided

--

15 Annex Form NOT003 AIS/PIS denial (notification by account servicing payment service providers under regulation 71)

NOT003 - AIS/PIS denial (PSRs 2017 regulation 71(8)): ASPSP denial of access to payment accounts to a provider of AIS or PIS)

Special Instructions

If this is a notification that access has been denied, answer all questions except questions 2 and 6

If this is a notification that access has been restored please only answer questions 1, 2 and 6

Type of notification

- 1 Is this notification:
(i) an initial notification that access to a payment account has been denied under regulation 71(7) of the Payment Services Regulation 2017; or
(ii) a notification that the issues set out in a previous notification have been resolved such that access has been restored (in accordance with SUP 15.14.13 and SUP 15.14.14)?

A
Access denied
Access restored

- 2 If this is a notification that access has been restored, please provide the case ID provided when you submitted the relevant denial notification

B
[insert case ID from previous denial notification]

ASPSP submitting the notification

- 3 Details of the ASPSP submitting the notification

A
Details of individual who can be contacted about this notification (title, name, telephone & email address)

Information about the denial of access

- 4 Details of the AISP/PISP that has been denied access

A
Name

B
The authorisation number of the AISP/PISP contained in the public register(s) of the home Member State (e.g. the FCA refers to this as the "Firm Reference Number")

C
Name of the competent authority with which the AISP or PISP is registered or authorised

- 5 Denial of access

A
On this occasion has access been denied to a single payment account or to all payment accounts or a category of payment accounts?
single payment
all payment accounts
category of payments accounts

B
Time and date at which access was denied

C
What were the reasons for taking action? How did these relate to unauthorised or fraudulent access to the payment account?

D
What was prevented? (select)
Access to data
Payment initiation

E
Please provide a description of the circumstances that led to the denial of access

F
Do you intend to immediately restore access?
Yes
No
Unknown

- 6 Restoration of access

A
Where access has been restored, please provide details of how the issue was resolved:

15 Annex Form Notification of major operational or security incidents – PSD2 11D

Major Incident Report	
<input type="checkbox"/> Initial report	within 4 hours after detection
<input type="checkbox"/> Intermediate report	maximum of 3 business days from previous report
<input type="checkbox"/> Last intermediate report	
<input type="checkbox"/> Final report	within 2 weeks after closing the incident
<input type="checkbox"/> Incident reclassified as non-major	Please explain:
Report date	DD/MM/YYYY
Time	HH:MM
Incident identification number, if applicable (for interim and final reports)	

A - Initial report	
A 1 - GENERAL DETAILS	
Type of report	<input type="checkbox"/> Individual <input type="checkbox"/> Consolidated
Affected payment service provider (PSP)	
PSP name	
PSP unique identification number, if relevant	
PSP authorisation number	
Head of group, if applicable	
Home country	
Country/countries affected by the incident	
Primary contact person	Email Telephone
Secondary contact person	Email Telephone
Reporting entity (complete this section if the reporting entity is not the affected PSP in case of delegated reporting)	
Name of the reporting entity	
Unique identification number, if relevant	
Authorisation number, if applicable	
Primary contact person	Email Telephone
Secondary contact person	Email Telephone
A 2 - INCIDENT DETECTION and INITIAL CLASSIFICATION	
Date and time of detection of the incident	DD/MM/YYYY, HH:MM
The incident was detected by ⁽¹⁾	If Other, please explain:
Please provide a short and general description of the incident (should you deem the incident to have an impact in other EU Member States(s), and if feasible within the applicable reporting deadlines, please provide a translation in English)	
What is the estimated time for the next update?	DD/MM/YYYY, HH:MM

B - Intermediate report																	
B 1 - GENERAL DETAILS																	
<p>Please provide a more DETAILED description of the incident, e.g. information on:</p> <ul style="list-style-type: none"> - What is the specific issue? - How it happened - How did it develop - Was it related to a previous incident? - Consequences (in particular for payment service users) - Background of the incident detection - Areas affected - Actions taken so far - Service providers/ third party affected or involved - Crisis management started (internal and/or external (Central Bank Crisis management)) - PSP internal classification of the incident 																	
Date and time of beginning of the incident (if already identified)	DD/MM/YYYY, HH:MM																
Incident status	<input type="checkbox"/> Diagnostics <input type="checkbox"/> Recovery <input type="checkbox"/> Repair <input type="checkbox"/> Restoration																
Date and time when the incident was restored or is expected to be restored	DD/MM/YYYY, HH:MM																
B 2 - INCIDENT CLASSIFICATION & INFORMATION ON THE INCIDENT																	
Overall impact	<input type="checkbox"/> Integrity <input type="checkbox"/> Confidentiality <input type="checkbox"/> Continuity <input type="checkbox"/> Availability <input type="checkbox"/> Authenticity																
Transactions affected ⁽²⁾	<table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Number of transactions affected</td> <td style="width: 15%;"><input type="text"/></td> <td style="width: 10%;"><input type="checkbox"/> Actual figure</td> <td style="width: 15%;"><input type="checkbox"/> Estimation</td> </tr> <tr> <td>As a % of regular number of transactions</td> <td><input type="text"/></td> <td><input type="checkbox"/> Actual figure</td> <td><input type="checkbox"/> Estimation</td> </tr> <tr> <td>Value of transactions affected in EUR</td> <td><input type="text"/></td> <td><input type="checkbox"/> Actual figure</td> <td><input type="checkbox"/> Estimation</td> </tr> <tr> <td colspan="4">Comments:</td> </tr> </table>	Number of transactions affected	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation	As a % of regular number of transactions	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation	Value of transactions affected in EUR	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation	Comments:			
Number of transactions affected	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation														
As a % of regular number of transactions	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation														
Value of transactions affected in EUR	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation														
Comments:																	
Payment service users affected ⁽³⁾	<table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Number of payment service users affected</td> <td style="width: 15%;"><input type="text"/></td> <td style="width: 10%;"><input type="checkbox"/> Actual figure</td> <td style="width: 15%;"><input type="checkbox"/> Estimation</td> </tr> <tr> <td>As a % of total payment service users</td> <td><input type="text"/></td> <td><input type="checkbox"/> Actual figure</td> <td><input type="checkbox"/> Estimation</td> </tr> </table>	Number of payment service users affected	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation	As a % of total payment service users	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation								
Number of payment service users affected	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation														
As a % of total payment service users	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation														
Service downtime ⁽⁴⁾	<table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Total service downtime</td> <td style="width: 15%;"><input type="text"/></td> <td style="width: 10%;"><input type="checkbox"/> Actual figure</td> <td style="width: 15%;"><input type="checkbox"/> Estimation</td> </tr> </table>	Total service downtime	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation												
Total service downtime	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation														
Economic impact ⁽⁵⁾	<table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Direct costs in EUR</td> <td style="width: 15%;"><input type="text"/></td> <td style="width: 10%;"><input type="checkbox"/> Actual figure</td> <td style="width: 15%;"><input type="checkbox"/> Estimation</td> </tr> <tr> <td>Indirect costs in EUR</td> <td><input type="text"/></td> <td><input type="checkbox"/> Actual figure</td> <td><input type="checkbox"/> Estimation</td> </tr> </table>	Direct costs in EUR	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation	Indirect costs in EUR	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation								
Direct costs in EUR	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation														
Indirect costs in EUR	<input type="text"/>	<input type="checkbox"/> Actual figure	<input type="checkbox"/> Estimation														
High level of internal escalation	<input type="checkbox"/> YES <input type="checkbox"/> YES, AND CRISIS MODE (OR EQUIVALENT) IS LIKELY TO BE CALLED UPON <input type="checkbox"/> NO Describe the level of internal escalation of the incident, indicating if it has triggered or is likely to trigger a crisis mode (or equivalent) and if so, please describe																
Other PSPs or relevant infrastructures potentially affected	<input type="checkbox"/> YES <input type="checkbox"/> NO Describe how this incident could affect other PSPs and/or infrastructures																
Reputational impact	<input type="checkbox"/> YES <input type="checkbox"/> NO Describe how the incident could affect the reputation of the PSP (e.g. media coverage, potential legal or regulatory infringement, etc.)																
B 3 - INCIDENT DESCRIPTION																	
Type of incident	<input type="checkbox"/> Operational <input type="checkbox"/> Security <input type="checkbox"/> Under investigation																
Cause of incident	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> External attack <input type="checkbox"/> Internal attack <input type="checkbox"/> External events <input type="checkbox"/> Human error <input type="checkbox"/> Process failure <input type="checkbox"/> System failure <input type="checkbox"/> Other </td> <td style="width: 10%; text-align: center; vertical-align: middle;">} →</td> <td style="width: 40%; vertical-align: top;"> Type of attack: <input type="checkbox"/> Distributed/Denial of Service (D/DoS) <input type="checkbox"/> Infection of internal systems <input type="checkbox"/> Targeted intrusion <input type="checkbox"/> Other If Other, specify </td> </tr> </table>	<input type="checkbox"/> External attack <input type="checkbox"/> Internal attack <input type="checkbox"/> External events <input type="checkbox"/> Human error <input type="checkbox"/> Process failure <input type="checkbox"/> System failure <input type="checkbox"/> Other	} →	Type of attack: <input type="checkbox"/> Distributed/Denial of Service (D/DoS) <input type="checkbox"/> Infection of internal systems <input type="checkbox"/> Targeted intrusion <input type="checkbox"/> Other If Other, specify													
<input type="checkbox"/> External attack <input type="checkbox"/> Internal attack <input type="checkbox"/> External events <input type="checkbox"/> Human error <input type="checkbox"/> Process failure <input type="checkbox"/> System failure <input type="checkbox"/> Other	} →	Type of attack: <input type="checkbox"/> Distributed/Denial of Service (D/DoS) <input type="checkbox"/> Infection of internal systems <input type="checkbox"/> Targeted intrusion <input type="checkbox"/> Other If Other, specify															
Was the incident affecting you directly, or indirectly through a service provider?	<input type="checkbox"/> Directly <input type="checkbox"/> Indirectly If indirectly, please provide the service provider's name																
B 4 - INCIDENT IMPACT																	
Building(s) affected (Address), if applicable																	
Commercial channels affected	<input type="checkbox"/> Branches <input type="checkbox"/> Telephone banking <input type="checkbox"/> Point of sale <input type="checkbox"/> E-banking <input type="checkbox"/> Mobile banking <input type="checkbox"/> Other <input type="checkbox"/> ATMs																
Payment services affected	<input type="checkbox"/> Cash placement on a payment account <input type="checkbox"/> Credit transfers <input type="checkbox"/> Money remittance <input type="checkbox"/> Cash withdrawal from a payment account <input type="checkbox"/> Direct debits <input type="checkbox"/> Payment initiation services <input type="checkbox"/> Operations required for operating a payment account <input type="checkbox"/> Card payments <input type="checkbox"/> Account information services <input type="checkbox"/> Acquiring of payment instruments <input type="checkbox"/> Issuing of payment instruments <input type="checkbox"/> Other																
Functional areas affected	<input type="checkbox"/> Authentication/authorisation <input type="checkbox"/> Clearing <input type="checkbox"/> Indirect settlement <input type="checkbox"/> Communication <input type="checkbox"/> Direct settlement <input type="checkbox"/> Other																
Systems and components affected	<input type="checkbox"/> Application/software <input type="checkbox"/> Hardware <input type="checkbox"/> Database <input type="checkbox"/> Network/infrastructure <input type="checkbox"/> Other																
Staff affected	<input type="checkbox"/> YES <input type="checkbox"/> NO Describe how the incident could affect the staff of the PSP/service provider (e.g. staff not being able to reach the office to support customers, etc.)																
B 5 - INCIDENT MITIGATION																	
Which actions/measures have been taken so far or are planned to recover from the incident?																	
Has the Business Continuity Plan and/or Disaster Recovery Plan been activated?	<input type="checkbox"/> YES <input type="checkbox"/> NO If so, when? DD/MM/YYYY, HH:MM If so, please describe																
Has the PSP cancelled or weakened some controls because of the incident?	<input type="checkbox"/> YES <input type="checkbox"/> NO If so, please explain																

Amend the following text as shown.

16 Reporting requirements

16.1 Application

...

16.1.1A D The directions and *guidance* in SUP 16.13 apply to ~~an authorised payment institution and a small payment institution~~ a payment service provider as set out in that section.

16.1.1AA G Credit institutions and electronic money institutions should note that some of the directions in SUP 16.13 apply to them as well as to payment institutions and registered account information service providers.

16.1.1B ...

16.2 Purpose

16.2.1 G ...

(3) The FCA has supervisory functions under the *Payment Services Regulations* and the *Electronic Money Regulations*. In order to discharge these functions, the FCA requires the provision of information on a regular basis. SUP 16.13 sets out the information that the FCA requires from *payment service providers* to assist it in the discharge of its functions as well as directions and guidance on the periodic reports that are required under the *Payment Services Regulations*. SUP 16.15 sets out the information that the FCA requires from *electronic money issuers* to assist it in discharging its functions and responsibilities under the *Electronic Money Regulations*.

...

16.13 Reporting under the Payment Services Regulations

Application

16.13.1 G This section applies to ~~authorised payment institutions and small payment institutions~~ a payment service provider as set out in this section (see SUP 16.1.1AD).

Purpose

16.13.2 G The purpose of this section is to:

- (1) give directions to *authorised payment institutions and small payment institutions and registered account information service providers* under regulation ~~82~~ 109(1) (Reporting requirements) of the *Payment Services Regulations* in relation to:
 - ~~(1)~~ the information in respect of their provision of *payment services* and their compliance with requirements imposed by or under Parts 2 to ~~6~~ 7 of the *Payment Services Regulations* that they must provide to the *FCA*; and
 - ~~(2)~~ the time at which and the form in which they must provide that information and the manner in which it must be verified;
- (2) give directions to *payment service providers* under regulation 109(5) (Reporting requirements) of the *Payment Services Regulations* in relation to the form of the statistical data on fraud relating to different means of payment that must be provided to the *FCA* under regulation 109(4) of the *Payment Services Regulations* at least once per year;
- (3) give directions to *payment service providers* under regulation 98(3) (Management of operational and security risks) of the *Payment Services Regulations* in relation to:
 - (a) the information that must be contained in the assessment of operational and security risks and the adequacy of mitigation measures and control mechanisms that must be provided to the *FCA*;
 - (b) the intervals at which that assessment must be provided to the *FCA* (if the assessment is required to be provided more frequently than once a year); and
 - (c) the form and manner in which that assessment must be provided; and
- (4) give directions to *EEA authorised payment institutions* under regulation 30(4) of the *Payment Services Regulations* in relation to:
 - (a) the information that they must provide to the *FCA* in respect of the *payment services* they carry on in the *United Kingdom* in exercise of passport rights; and
 - (b) the time at which and the form in which they must provide that information and the manner in which it must be verified.

16.13.2- G The purpose for which this section requires information to be provided to the
A *FCA* under regulation 109 of the *Payment Services Regulations* is to assist
 the *FCA* in the discharge of its functions under regulation 106 (Functions of
 the *FCA*), regulation 108 (Monitoring and enforcement) and regulation
 109(6) (Reporting requirements) of the *Payment Services Regulations*.

- 16.13.2A G The purpose of this section is also to set out the rules applicable to authorised payment institutions and small payment institutions payment service providers in relation to complete and timely reporting and failure to submit reports.
- 16.13.2B G Authorised payment institutions and small payment institutions should refer to the transitional provisions in SUP TP 1.11 (Payment services and electronic money returns).

Reporting requirement

- 16.13.3 D (1) An authorised payment institution or a small payment institution, an EEA authorised payment institution or a registered account information service provider must submit to the FCA the duly completed return applicable to it as set out in column (2) of the table in SUP 16.13.4D.
- (2) An authorised payment institution or a small payment institution or a registered account information service provider must submit the return referred to in (1):

...

16.13.3-A D SUP 16.4.5R (Annual controllers report) and SUP 16.5.4R (Annual Close Links Reports) apply to an authorised payment institution as if a reference to firm in these rules were a reference to an authorised payment institution.

16.13.3A D SUP 16.3.11R (Complete reporting) and SUP 16.3.13R (Timely reporting) also apply to authorised payment institutions and small payment institutions, EEA authorised payment institutions and registered account information service providers as if a reference to firm in these rules were a reference to authorised payments institutions and small payment institutions these categories of payment service provider.

16.13.3B R SUP 16.3.14R (Failure to submit reports) also applies to authorised payment institutions and small payment institutions payment service providers that are required to submit reports or assessments in accordance with this section and the Payment Services Regulations as if a reference to firm in this rule were a reference to authorised payments institutions and small payment institutions the relevant category of payment service provider.

16.13.3C G Authorised payment institutions, small payment institutions and registered account information service providers are reminded that they should give the FCA reasonable advance notice of changes to their accounting reference date (among other things) under regulation 37 of the Payment Services Regulations. The accounting reference date is important because many frequencies and due dates for reporting to the FCA are linked to the accounting reference date.

16.13.4 D The table below sets out the format, reporting frequency and due date for submission in relation to regulatory returns that apply to *authorised payment*

institutions and, small payment institutions, EEA authorised payment institutions and registered account information service providers.

(1)	(2)	(3)	(4)	(5)
Type of firm payment service provider	Return	Format	Reporting frequency	Due date
<i>Authorised Payment Institution</i> <u>authorised payment institution</u>	Authorised Payment Institution Capital Adequacy Return	FSA056 (Note 1)	Annual (Note 2)	30 business days (Note 3)
<u>registered account information service provider</u>	<u>Authorised Payment Institution Capital Adequacy Return</u>	<u>FSA056 (Note 1)</u>	<u>Annual (Note 2)</u>	<u>30 business days (Note 3)</u>
<i>Small Payment Institution</i> <u>small payment institution</u>	Payment Services Directive Transactions	Article I. F SA057 (Note 4)	Article II. Annual (Note 5)	Article III. month <u>month</u> (Note 3)
Note 1	When submitting the completed return required, the <i>authorised payment institution or registered account information service provider</i> must use the format of the return set out in SUP 16 Annex 27AD <u>Annex 27CD</u> . Guidance notes for the completion of the return are set out in SUP 16 Annex 27BG <u>Annex 27DG</u> .			
Note 2	This reporting frequency is calculated from an <i>authorised payment institution's or registered account information service provider's</i> accounting reference date.			
Note 3	...			
Note 4	When submitting the completed return required, the <i>small payment institution</i> must use the format of the return set out in SUP 16 Annex 28AD <u>Annex 28CD</u> . Guidance notes for the completion of the return are set out in SUP 16 Annex 28BG <u>Annex 28DG</u> .			
...				

Statistical data on fraud

16.13.5 G Regulation 109(4) of the *Payment Services Regulations* requires *payment service providers* to provide to the FCA statistical data on fraud relating to different means of payment.

16.13.6 G This requirement applies to:

- (1) authorised payment institutions;
- (2) small payment institutions;
- (3) registered account information service providers;
- (4) electronic money institutions;
- (5) credit institutions;

16.13.7 D This statistical data on fraud must be submitted to the FCA by electronic means made available by the FCA using the format of the return set out in SUP 16 Annex 27ED. Guidance notes for the completion of the return are set out in SUP 16 Annex 27FG.

16.13.8 G The return set out in SUP 16 Annex 27ED must be provided to the FCA at least once per year. The first return should cover the period beginning on 13 January 2018 and ending on 31 December 2018 and should be submitted by 31 January 2019. Subsequent returns should cover consecutive reporting periods of one year beginning on 1 January and ending on 31 December each year and should be submitted within 1 month of the end of the reporting period.

...

16.15 Reporting under the Electronic Money Regulations

...

16.15.3 G ...

16.15.3A G Electronic money institutions should refer to the transitional provisions in SUP TP 1.11 (Payment services and electronic money returns).

Reporting requirement

...

16.15.8 D The table below sets out the format, reporting frequency and due date for submission in relation to regulatory returns that apply to *electronic money issuers* that are not *credit institutions*.

(1) Type of <i>electronic money issuer</i>	(2) Return	(3) Format	(4) Reporting Frequency	(5) Due date (Note 4)
<i>Authorised electronic money institution</i>	<u>Balance sheet EMI and SEMI</u>	<u>FSA059</u> <u>FIN060</u>	<u>Half Yearly</u> <u>Annual</u> (Note)	<i>30 business days</i>

(Note 1)	<u>Questionnaire</u>		3)	
	Income statement	FSA060	Half yearly (Note 3)	30 business days
	Capital requirements	FSA061	Half yearly (Note 3)	30 business days
	Safeguarding	FSA062	Half yearly (Note 3)	30 business days
	Supplementary information	FSA063	Half yearly (Note 3)	30 business days
	<i>Annual report and accounts</i>	No standard format	Annual (Note 3)	80 business days
<i>Small electronic money institutions</i> (Note 2)	<u>Return EMI and SEMI Questionnaire</u>	FSA064 FIN060	Half yearly <u>Annual</u> (Note 5)	30 business days
	Total electronic money outstanding @ 31st December	FSA065	Annual (Note 5)	1 month <u>month</u>
	<i>Annual report and accounts</i>	No standard format	Annual (Note 5)	80 business days
(a) the Post Office Limited (b) the Bank of England, the ECB and the national central banks of <i>EEA States</i> other than the <i>United Kingdom</i> (c) Government departments and local authorities (d) <i>credit unions</i> (e) municipal banks (f) the National Savings Bank	<i>Average outstanding electronic money</i>	No standard format	Half yearly <u>Annual</u> (Note 6)	30 business days
Note 1	When submitting the completed returns required, the <i>authorised electronic money institution</i> must use the format of the returns set out in <i>SUP 16 Annex 30A to SUP 16 Annex 30E SUP 16 Annex 30HD</i> .			

	<u>Guidance notes for the completion of the return are set out in SUP 16 Annex 30IG.</u>
Note 2	When submitting the completed returns required, the <i>small electronic money institution</i> must use the format of the returns set out in SUP 16 Annex 30F to SUP 16 Annex 30G <u>SUP 16 Annex 30JD (FIN060) and SUP 16 Annex 30GD (FSA065).</u> <u>Guidance notes for the completion of the FIN060 return are set out in SUP 16 Annex 30KG.</u>
Note 3	Where the authorised electronic money institution's reporting frequency is half yearly or annual, this <u>This</u> field is calculated from the <i>authorised electronic money institution's accounting reference date</i> .
Note 4	The due dates for returns are the last day of the periods given in column (5) of the table above following the relevant reporting frequency period set out in column (4) of the table above.
Note 5	The reporting frequency in relation to FSA065 is calculated from 31 December each calendar year. Otherwise, where the small electronic money institution's reporting frequency is half yearly or annual, <u>In relation to FIN060,</u> this field is calculated from the <i>small electronic money institution's accounting reference date</i> .
Note 6	This is calculated from 31 December each calendar year.

After SUP 16 Annex 27B (Notes on Completing FSA056 (Authorised Payment Institution Capital Adequacy Return – SUP 16 Annex 27AD)) insert the following new Annex as SUP 16 Annex 27C. The text is not underlined.

16 Annex Authorised Payment Institution Capital Adequacy Return 27CD

This annex consists only of one or more forms. Firms are required to submit the returns using the electronic means made available by the FCA.

FSA056 Authorised Payment Institution Capital Adequacy Return

Currency Units Single

INTRODUCTORY MATTERS

Questions 67 to 69 must be answered in GBP

- 1 Is the firm included in the consolidated supervision of a parent credit institution pursuant to the Capital Requirements Directive 2013/36/EU and are all of the conditions specified in Article 7(1) of the Capital Requirements Regulations (EU) 575/2013 met?
- 2 If 'yes', please give the firm reference number of the firm that submitted the most recent consolidated capital statement to the FCA
- 67 Total income during the reporting period
- 68 Total income derived from payment services during the reporting period
- 69 Operating profit / loss of firm in the reporting period

B

Part One: CAPITAL REQUIREMENT

Part One must be answered in EUR

Initial Capital Requirement

- 3 Initial capital requirement at authorisation

Own Funds Requirement

- 4-6 Please indicate which method your firm uses to calculate its own funds requirement

Method A

- 7 Total fixed overheads for preceding year
- 8 Own funds requirement (10% of fixed overheads for preceding year)
- 9 Total capital requirement (higher of initial capital and own funds requirement)

Method B

- 10 Payment volume
- 11 4% of first €5m of payment volume
- 12 2.5% of payment volume between €5m and €10m
- 13 1% of payment volume between €10m and €100m
- 14 0.5% of payment volume between €100m and €250m
- 15 0.25% of any remaining payment volume
- 16 Total
- 17 Scaling factor
- 18 Own funds requirement
- 19 Total capital requirement (higher of initial capital and own funds requirement)

Method C

Relevant Indicator

- 20 Interest income
- 21 Interest expenses
- 22 Gross commissions and fees received
- 23 Gross other operating income
- 24 Total Relevant Indicator

Multiplication Factor

- 25 10% of the first €2.5m of the total relevant indicator
- 26 8% of the total relevant indicator between €2.5m and €5m
- 27 6% of the total relevant indicator between €5m and €25m
- 28 3% of the total relevant indicator between €25m and €50m
- 29 1.5% of any remaining amount of the total relevant indicator
- 30 Total Multiplication Factor
- 31 Scaling factor
- 32 Own funds requirement
- 33 Total capital requirement (higher of initial capital and own funds requirement)

Part Two: TOTAL CAPITAL RESOURCES

Part Two must be answered in GBP, unless otherwise stated

Elements of Own Funds

Common Equity Tier 1 (CET1) Capital

	B
90 CET1 items	
91 Adjustments to CET1 due to the application of Prudential Filters	
92 Deductions from CET1 items	
93 Exemptions from and alternatives to deductions from CET1 items	
94 Temporary waivers applied to CET1 deductions from own funds	
95 Total CET1 Capital	

Additional Tier 1 (AT1) Capital

96 AT1 Items	
97 Deductions from AT1 items	
98 Temporary waivers applied to AT1 deductions from own funds	
99 Total AT1 Capital	

Tier 2 (T2) Capital

100 T2 Items	
101 Deductions from T2 items	
102 Temporary waivers applied to T2 deductions from own funds	
103 Total T2 Capital	

Eligible Capital for calculating Own Funds

	A Total amount	B Eligible Amount	C Excess
104 CET1 Capital	-	-	
105 AT1 Capital	-	-	0.00
106 Tier 1 Capital	-	-	
107 T2 Capital	-	-	0.00

52 Total capital resources (GBP)	
53 £/€ exchange rate	
54 Total capital resources (EUR)	
55 Total capital requirement (EUR)	
56 Capital surplus/deficit (EUR)	

Part Three: SUPPLEMENTARY INFORMATION

Safeguarding of relevant funds

Please indicate which method the firm uses to safeguard relevant funds
(Select all that apply and add the appropriate information)

	B	C	D
61 Placed in a separate account with an authorised credit institution	<input type="text"/>	Credit institution name	Country where the account is located
62 Invested in approved secure liquid assets held in a separate account with an authorised custodian	<input type="text"/>	Custodian name	Country where the account is located
63 Covered by an insurance policy with an authorised insurer	<input type="text"/>	Insurer name	
64 Covered by a guarantee from an authorised insurer	<input type="text"/>	Insurer name	
65 Covered by a guarantee from an authorised credit institution	<input type="text"/>	Credit institution name	

Number of Agents

	B
66 Please report the number of agents the firm has	<input type="text"/>

Payment Systems

70 Is the firm a member of any sterling interbank payment systems? <i>Select all that apply</i>	<input type="checkbox"/> Bacs <input type="checkbox"/> CHAPS <input type="checkbox"/> Cheque and Credit <input type="checkbox"/> Faster Payments <input type="checkbox"/> LINK <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa <input type="checkbox"/> No <input type="checkbox"/> Other(s)
--	--

71 If Other(s), please specify	<input type="text"/>
--------------------------------	----------------------

72 Which, if any, sterling interbank payment systems does your firm access <i>Select all that apply.</i>	<input type="checkbox"/> Bacs <input type="checkbox"/> CHAPS <input type="checkbox"/> Cheque and Credit <input type="checkbox"/> Faster Payments <input type="checkbox"/> None <input type="checkbox"/> Other(s)
---	---

73 If Other(s), please specify	<input type="text"/>
--------------------------------	----------------------

74 Which institution is the firm's primary provider of indirect access to sterling interbank payment systems?	<input type="text"/>
---	----------------------

Transaction and User Information

75 Number of full months in the reporting period in which the firm was FCA authorised	<input type="text"/>
---	----------------------

76 Number of payment transactions executed in the reporting period	<input type="text"/>
--	----------------------

	A	B
	GBP	EUR
77 Total value of payment transactions executed in the reporting period	<input type="text"/>	<input type="text"/>

78 Number of new payment service users in the reporting period	<input type="text"/>
--	----------------------

Part Four: PROVIDERS OF ACCOUNT INFORMATION AND/OR PAYMENT INITIATION SERVICES

Account information services (AIS)

Please only answer the following questions if you provide account information services

	B	C
79 How many different payment accounts have been accessed by the firm in the reporting period for the purposes of providing AIS?	<input type="text"/>	
80 How many customers have used the firm's account information services in the reporting period?	<input type="text"/>	
81 Please enter the minimum monetary amount of the PII (or comparable guarantee) calculated in accordance with the EBA's Guidelines (EUR)	<input type="text"/>	
82 Please enter the amount of coverage of the professional indemnity insurance (or comparable guarantee) (EUR)	<input type="text"/>	
83 Has the minimum monetary amount, the insurance provider or the terms and conditions of the insurance policy (or where relevant, the guarantor and terms of the guarantee) changed in any way since the information was last submitted to the FCA?	<input type="text"/>	If yes, please explain <input type="text"/>

Payment initiation services (PIS)

Please only answer the following questions if you provide payment initiation services

84 How many different payment accounts have been accessed by the API in the reporting period for the purposes of providing PIS?	<input type="text"/>	
85 How many payment transactions has the firm initiated in the reporting period?	<input type="text"/>	
86 What is the total value of all payment transactions initiated by the firm during the reporting period? (EUR)	<input type="text"/>	
87 Please enter the minimum monetary amount of the PII (or comparable guarantee) calculated in accordance with the EBA's Guidelines (EUR)	<input type="text"/>	
88 Please enter the amount of coverage of the professional indemnity insurance (or comparable guarantee) (EUR)	<input type="text"/>	
89 Has the insurance provider or the terms and conditions of the insurance policy (or where relevant, the guarantor and terms of the guarantee) changed in any way since the information was last submitted to the FCA?	<input type="text"/>	If yes, please explain <input type="text"/>

After SUP 16 Annex 27C insert the following new Annex as SUP 16 Annex 27D. The text is not underlined.

16 Notes on completing FSA056 (Authorised Payment Institution Capital Adequacy Annex Return – SUP 16 Annex 27CD) 27DG

FSA056 Authorised Payment Institution Capital Adequacy Return

Valuation

Firms should follow their normal accounting practice wherever possible.

Currency

Some questions require you to answer in GBP, whilst some require you to answer in EUR. The exchange rate entered at Element 53 should be used throughout the return to convert GBP to EUR where required.

- Elements 67-69, 90-107, and 52, must be completed in GBP.
- Element 77 must be answered in GBP and EUR.
- All other monetary answers must be in EUR

Type of payment service: special instructions

- **Registered account information service providers**
Registered account information service providers (as defined in the Payment Services Regulations 2017, “PSRs 2017”) should only answer Elements 67-69 (income), and 79 - 83 (AIS).
- **Authorised payment institutions that only provide payment initiation services**
Authorised payment institutions (APIs) that ONLY provide payment initiation services (PIS) should only answer Elements 67-69 (income), Element 3 (initial capital), Part Two (capital resources), Element 66 (Agents), 70-75 (payment systems) and 84-89 (PIS).
- APIs that provide PIS / AIS and/or other payments services should answer all Elements, including the relevant sections of Part 4 (depending on whether they provide AIS / PIS or both).

Data elements

These are referred to by row first, then by column, so data Element 2B will be the element numbered 2 in column B.

Figures should be entered in single units in the currency specified. For example, €1,234,567.50 should be entered as 1234567

INTRODUCTORY MATTERS

Element 1B: You must only answer ‘Yes’ to this question if both parts of the question apply to the API required to submit this report (i.e. if the API falls within paragraph 2(b) of regulation 22: (a) the API is included in the consolidated supervision of a parent credit institution pursuant to the Capital Requirements Directive 2013/36/EU and (b) that all of the conditions in Article 7(1) of the Capital Requirements Regulations (EU) 575/2013 are met in respect of the API and its parent. If either part of this question does not apply, you should enter “no”.

Element 2B: If you have answered “yes” to ‘Element 1B’ then please enter the Firm Reference Number of your firm’s parent credit institution. If you have answered “yes” to ‘Element 2B’ then you do not need to answer Elements 4 to 33 (own funds requirement).

Element 67B: State, in GBP, the total income of the whole legal entity, across all activity, for the reporting period. Follow your firm’s normal accounting practice when answering this question (i.e. this should be the same figure as the total income figure in your annual accounts).

Element 68B: State, in GBP, the total income for the reporting period derived from payment services. Follow your normal accounting practice when answering this question.

Element 69B: State, in GBP, the total operating profit or loss of the whole legal entity for the reporting period. Operating profit or loss is calculated after ordinary operating expenses are deducted from the gross profit, but before interest, tax, dividend payments and any extraordinary items are deducted.

Part One: CAPITAL REQUIREMENT

Initial capital requirement

Element 3B: State, in EUR the firm’s initial capital requirement at authorisation (Part 1, Schedule 3 of the PSRs 2017).

Own Funds Requirement

Elements 4B – 6B: Firms should indicate which of the three methods they use to calculate their own funds requirement, as described in Part 2 of Schedule 3 of the PSRs 2017

Firms only need to complete those parts of the form that apply to their chosen method of calculating own funds.

If your firm has not completed a full financial year of business, then, in lieu of the figure for the “preceding year” or the “previous financial year”, you must use the projected figure(s) that your firm submitted to the FCA when applying for authorisation (subject to any adjustments that the FCA required or may require).

Please refer to Chapter 9 (Capital resources and requirements) of our Payment Services and Electronic Money Approach Document for further detail on how to calculate the own funds requirement.

Method A Calculation

Element 7B: State, in EUR, the total fixed overheads for the preceding year. Please refer to Chapter 9 of our Approach Document for further guidance on fixed overheads.

Element 8B: State, in EUR, the figure equal to 10% of the figure you have reported in 'Element 7B'.

Element 9B: State, the larger of the two figures you have reported in 'Element 3B' and 'Element 8B'.

Method B Calculation

Element 10B: "Payment volume" means the total amount (i.e. value) of payment transactions executed by the API in the preceding financial year divided by the number of months in that year (paragraph 9(3), Part 2, Schedule 3 of the PSRs 2017). This figure should include transactions executed by agents of the API.

Element 11B: State, in EUR, the figure that equals 4% of the first €5m of payment volume.

Element 12B: State, in EUR, the figure that equals 2.5% of payment volume between €5m and €10m. If your firm has undertaken less than €5m in payment volume, insert a zero in this box.

Element 13B: State, in EUR, the figure that equals 1% of payment volume between €10m and €100m. If your firm has undertaken less than €10m in payment volume, insert a zero in this box.

Element 14B: State, in EUR, the figure that equals 0.5% of payment volume between €100m and €250m. If your firm has undertaken less than €100m in payment volume, insert a zero in this box.

Element 15B: State, in EUR, the figure that equals 0.25% of all payment volume over €250m. If your firm has undertaken less than €250m in payment volume, insert a zero in this box.

Element 16B: State, in EUR, the sum of the values from 'Elements 11B to 15B' above.

Element 17B: The "scaling factor" is:

- 0.50 for a payment institution that is authorised to provide only the payment service specified in paragraph 1(f) of Schedule 1 PSRs 2017 (money remittance); and
- 1.00 for a payment institution that is authorised to provide any other payment service specified in paragraph 1(a) to (e) of Schedule 1 PSRs 2017.

The scaling factor should be entered to 2 decimal places.

Element 18B: This figure is calculated using the following equation: 'Element 16B x Element 17B'.

Element 19B: Insert the larger of the two figures you have reported in 'Element 3B' and 'Element 18B'.

Method C calculation

Relevant Indicator

Element 20B – Element 23B: these figures should be entered in EUR and should cover the expenses or income generated over the reporting period. Please refer to Chapter 9 (Capital resources and requirements) of our Payment Services and Electronic Money Approach Document for further detail on the Elements that make up the relevant indicator.

Firms should have regard to paragraphs 10(4)(a)-(d), Part 2, Schedule 3 of the PSRs 2017 for the purposes of calculating the relevant indicator:

- each element must be included in the sum with its positive or negative sign;
- income from extraordinary or irregular items must not be used;
- expenditure on the outsourcing of services rendered by third parties may reduce the relevant indicator if the expenditure is incurred from a payment service provider;
- the relevant indicator is calculated on the basis of the twelve-monthly observation at the end of the previous financial year;
- the relevant indicator must be calculated over the previous financial year; and
- audited figures must be used unless they are not available in which case business estimates may be used.

Element 24B: This should be the sum of the amounts stated in ‘Elements 20B to 23B’ above.
Multiplication Factor

Element 25B: State, in EUR, the figure that equals 10% of the first €2.5m of the “total relevant indicator of income” in ‘Element 24B’.

Element 26B: State, in EUR, the figure that equals 8% of the “total relevant indicator of income” in ‘Element 24B’ between €2.5m and €5m. If your firm's total relevant indicator of income is less than or equal to €2.5m, you should enter zero in this box.

Element 27B: State, in EUR, the figure that equals 6% of the “total relevant indicator of income” in ‘Element 24B’ between €5m and €25m. If your firm's total relevant indicator of income is less than or equal to €5m, you should enter zero in this box.

Element 28B: State, in EUR, the figure that equals 3% of the “total relevant indicator of income” in ‘Element 24B’ between €25m and €50m. If your firm's total relevant indicator of income is less than or equal to €25m, you should enter zero in this box.

Element 29B: State, in EUR, the figure that equals 1.5% of the “total relevant indicator of income” in ‘Element 24B’ over €50m. If your firm's total relevant indicator of income is less than or equal to €50m, you should enter zero in this box.

Element 30B: State, in EUR, the sum of the values of ‘Elements 25B to 29B’ above.

Element 31B:

The “scaling factor” is:

- 0.50 for a payment institution that is authorised to provide only the payment service specified in paragraph 1(f) of Schedule 1 PSRs 2017 (money remittance); and

- 1.00 for a payment institution that is authorised to provide any other payment service specified in paragraph 1(a) to (e) of Schedule 1 PSRs 2017.

The scaling factor should be entered to 2 decimal places.

Element 32B: This figure is calculated by multiplying ‘Element 24B’ by Element 30B and ‘Element 31B’.

Element 33B: Insert the larger of the two figures you have reported in ‘Element 3B’ and ‘Element 32B’.

Part Two: TOTAL CAPITAL RESOURCES

For the purposes of Part Two – Elements of Own Funds, please provide a value for Common Equity Tier 1, Additional Tier 1 and Tier 2 capital items. You will also need to provide values for adjustments, deductions, exemptions, and temporary waivers (entering zero where not relevant). You should enter these items in GBP.

To understand the items that may be used to form ‘own funds’, APIs should consult the PSRs 2017, the Capital Requirements Regulation (EU) 575/2013 (CRR), and the Payment Services and Electronic Money Approach Document.

Regulation 2 of the PSRs 2017 sets out that own funds has the definition given in the CRR Article 4(1)(118). Own funds consist of Tier 1 and Tier 2 items. Tier 1 is formed of Common Equity Tier 1 and Additional Tier 1. At least 75% of Tier 1 capital must be held as Common Equity Tier 1 capital and Tier 2 capital must be equal to or less than one third of Tier 1 capital. The return will take into account these limits when automatically calculating figures for eligible amounts in elements 104B-107B – these do not need to be manually entered.

Element 52B: This should be the sum of the capital items listed at 106B-107B.

Element 53B: Please provide the EUR equivalent value for 1 GBP to 4 decimal places. This should be the market rate as quoted by the European Central Bank in place at the end of the reporting period. The InforEuro website provides historical exchange rates on a month-by-month basis:

http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/index_en.cfm

Element 54B: State the EUR equivalent of ‘Element 52B’ above.

Element 55B: State, in EUR, the same figure as you have reported in ‘Element 9B’, ‘Element 19B’ or ‘Element 33B’ (depending on the method your firm uses to calculate its capital requirement). If you answered “yes” to question 1, you must enter the figure reported in ‘Element 3B’ (initial capital requirement).

Element 56B: State, in EUR, the total capital surplus / deficit for your firm. This is calculated by subtracting the total capital requirement in ‘Element 55B’ above, from the total net capital resources in ‘Element 54B’ above (i.e. Element 54B – Element 55B = total capital surplus / deficit).

Part three: SUPPLEMENTARY INFORMATION

SAFEGUARDING OF RELEVANT FUNDS

You must select the relevant box(es) to identify the method(s) used by the firm to safeguard relevant funds. At least one of the boxes in 'Elements 61 to 65' must be selected.

NUMBER OF AGENTS

Element 66B: State the number of agents that you have registered to undertake payment services.

PAYMENT SYSTEMS

Element 70B: If your firm is a member of any sterling interbank payment systems, select the appropriate system(s) from the drop-down list. This means where you have a direct relationship with the operators of the payment system.

Element 72B: If your firm accesses, on an indirect basis, any sterling interbank payment systems, select the appropriate system(s) from the drop-down list. This means where the PSP indirectly accesses payment systems through the services of another PSP that is a direct participant or member of that payment system.

Element 74B: If your firm accesses any sterling interbank payment systems on an indirect basis select the institution that is the primary provider of that indirect access.

TRANSACTION AND USER INFORMATION

Element 75B: Enter the full number of months during the reporting period that your firm was FCA authorised or registered. For example, if you are completing this return for the period ending 31 December and you were authorised or registered by the FCA on 15 October then you should enter "2".

Element 76B: State the number of payment transactions executed by your firm during the reporting period. This includes payment transactions executed by agents of your firm.

Element 77B: State, the total amount (i.e. value) of all payment transactions executed during the reporting period. This includes payment transactions executed by agents of your firm. Note that you should enter the total gross value of the payment transactions, not the income generated by them. This figure should be provided in EUR and GBP.

Element 78B: State the number of new users / customers who have used your firm's payment services during the reporting period. This means those users that have entered into framework contracts or (where known) single payment service contracts during the reporting period and includes all customer types, including individual consumers and any corporate customers.

Part Four: PROVIDERS OF ACCOUNT INFORMATION AND/OR PAYMENT INITIATION SERVICES

Account information services (AIS)

Elements 79 – 83 should only be answered by firms providing account information services

Element 79B: State the number of payment accounts that the AIS provider has accessed for the purposes of providing AIS during the reporting period. You should count each individual payment account once, even where it has been accessed multiple times.

Element 80B: State the number of customers that have used the provider's AIS in the reporting period. Each customer should be counted once (including where the customer has used the AIS multiple times).

Element 81B: State the minimum monetary (in EUR) amount of the professional indemnity insurance (or comparable guarantee) (“**PII**”) calculated in accordance with the European Banking Authority Guidelines on Professional Indemnity Insurance under PSD2.

Element 82B: Please enter the amount of coverage of the PII that is held by the AIS provider. This should be entered in EUR. Please use the same conversion rate entered at ‘Element 53B’.

Element 83B: If the terms of the AIS provider's PII have changed in any respect since its authorisation or registration (if this is the first return), or since the last time this report was submitted, please explain here. This includes the insurance cover (i.e. the monetary amount), what the insurance covers (i.e. the losses or circumstances in which the insurance is payable), the terms and conditions, any limits or exclusions or any other change to the policy.

Payment initiation services (PIS)

Elements 84 – 89 should only be answered by firms providing account information services

Element 84B: Please enter number of payment accounts that the PIS provider

Element 85B: This should be the total number of payment transactions initiated using the provider's PIS in the reporting period.

Element 86B: This should be the total value (in EUR) of the payment transactions initiated using the provider's PIS in the reporting period.

Element 87B: State the minimum monetary amount (in EUR) of the professional indemnity insurance (or comparable guarantee) (“**PII**”) calculated in accordance with the European Banking Authority Guidelines on Professional Indemnity Insurance under PSD2

Element 88B: Please enter the amount of coverage of the PII that is held by the PIS provider. This should be entered in EUR. Please use the same conversion rate entered at ‘Element 53B’.

Element 89B: If the terms of the PIS provider's PII have changed in any respect since its authorisation or registration (if this is the first return), or since the last time this report was submitted, please explain here. This includes the insurance cover (i.e. the monetary amount),

what the insurance covers (i.e. the losses or circumstances in which the insurance is payable), the terms and conditions, any limits or exclusions or any other change to the policy.

After SUP 16 Annex 27D insert the following new Annex as SUP 16 Annex 27E. The text is not underlined.

**16 Annex REP017 Payments Fraud Report
27ED**

This annex consists only of one or more forms. Firms are required to submit the returns using the electronic means made available by the FCA.

REP017 – Payments Fraud Report

Table 1 - Fraud relating to different means of payment
Please provide data on the payment types subject to the most fraud (by value of fraudulent transactions)

A	B	C	D	E	H	I	H
Payment type	Total transaction volume for payment type (000s)	Total transaction value for payment type (£millions)	Fraudulent transaction volume for payment type (000s)	Fraudulent transaction value for payment type (£millions)	Volume of fraudulent transactions initiated through PISP using payment type	Top three fraud types which cause the highest value of fraudulent transactions for the payment type	Fraudulent transaction value (£millions)
1	BACS Direct Credit/BACS single payment/CHAPS credit transfer/Faster Payments (including standing orders)/SEPA credit transfer/Inter-bank transfer (OnUs) payment/international SWIFT payment/BACS Direct Debits/SEPA Direct debit/Pre-paid Card/Credit Card/Charge card/Debit card or cash card					Manipulation of the payer to issue a payment order/Issuance of a payment order by the fraudster/Modification of a payment order by the fraudster/Account takeover/Lost and stolen card fraud/Card Not Received fraud/Counterfeit card fraud/Theft of card details (card not present)	
2	BACS Direct Credit/BACS single payment/CHAPS credit transfer/Faster Payments (including standing orders)/SEPA credit transfer/Inter-bank transfer (OnUs) payment/international SWIFT payment/BACS Direct Debits/SEPA Direct debit/Pre-paid Card/Credit Card/Charge card/Debit card or cash card					Manipulation of the payer to issue a payment order/Issuance of a payment order by the fraudster/Modification of a payment order by the fraudster/Account takeover/Lost and stolen card fraud/Card Not Received fraud/Counterfeit card fraud/Theft of card details (card not present)	

Payment type	Total transaction volume for payment type (000s)	Total transaction value for payment type (£millions)	Fraudulent transaction volume for payment type (000s)	Fraudulent transaction value for payment type (£millions)	Volume of fraudulent transactions initiated through PSP using payment type	Top three fraud types which cause the highest value of fraudulent transactions for the payment type	Fraudulent transaction value (£millions)
BACS Direct Credit/BACS single payment/CHAPS credit transfer/Faster Payments (including standing orders)/SEPA credit transfer/inter-bank transfer (On US) payment/international SWIFT payment/BACS Direct Debits/SEPA Direct debit/Pre-paid Card/Credit Card/Charge card/debit card or cash card						Manipulation of the payer to issue a payment order/Issuance of a payment order by the fraudster/Modification of a payment order by the fraudster/Account takeover/lost and stolen card fraud/Card Not Received fraud/Counterfeit card fraud/Theft of card details (card not present)	

3 Payment type which has the third highest fraud rate by value of fraudulent transactions

Table 2 - Fraud relating to account information services

Please provide data on incidents of fraud relating to account information services

A	B	C
Number of incidents of fraud	Total value of fraud across all incidents (or an estimation of the loss to the persons defrauded) (£millions)	Please provide a brief description of how fraud was most commonly committed - descriptions of up to three different fraud types, in order of those with the highest loss

4 In respect of account information services only, please indicate:

After SUP 16 Annex 27E insert the following new Annex as SUP 16 Annex 27F. The text is not underlined.

16 Annex Notes on completing REP017 Payments Fraud Report 27FG

REP017 Payments Fraud Report

These notes contain guidance for payment service providers that are required to complete the Payments Fraud Report in accordance with Regulation 109(4) of the Payment Services Regulations 2017 and *SUP* 16.13.7D.

What is a fraudulent transaction?

For the purposes of this report, a fraudulent transaction is any payment transaction that the PSP has:

- executed;
- acquired; or
- in the case of a PISP, initiated;

and that the PSP deems to have been subject to one of the following fraud types:

(for credit transfers and direct debits)

- Manipulation of the payer to issue a payment order.
- Issuance of a payment order by the fraudster.
- Modification of a payment order by the fraudster.
- Account takeover.

(for credit cards)

- Lost and stolen card fraud.
- Card Not Received fraud.
- Counterfeit card fraud.
- Theft of card details (card not present)

If a payment transaction meets the conditions above it should be recorded as a fraudulent transaction for the purposes of this report irrespective of whether:

- the PSP had primary liability to the user;
- the fraudulent transaction would be reported as such by another PSP in the same payment chain; or
- the fraud is committed by the user (first party fraud) or by another person with whom the PSP does not have a contractual relationship (third party fraud).

Fraud types

PSPs should use their discretion when determining the appropriate fraud type for each fraudulent transaction and should choose the fraud type that most closely matches the circumstances of the fraud. We have provided guidance on the fraud types for this purpose.

Credit transfers and direct debits:

Manipulation of the payer to issue a payment order

This would cover fraud where the payer authorises a push payment to a fraudulent payee, also referred to as ‘malicious misdirection’; for example, when a scammer contacts the victim purporting to be from the victim’s bank. The scammer then convinces the victim to transfer money (using a credit transfer) to a different account in order to safeguard it but that account is in fact controlled by the scammer. (See Payment Systems Regulator response to Which? Super-complaint: <https://www.psr.org.uk/psr-publications/news-announcements/which-super-complaint-our-response-Dec-2016>).

Issuance of a payment order by the fraudster

This would cover fraud where the fraudster uses stolen personalised security credentials in order to issue a payment order, either through contacting the victim’s bank or accessing the victim’s online banking service. For example, where a victim’s online banking has been accessed using stolen personal identity details and credit transfers (such as Faster Payment or CHAPS payments) have been made or direct debits set up from the victim’s account to beneficiaries chosen by the fraudster.

Modification of a payment order by the fraudster

This would cover fraud where the fraudster has gained unauthorised access to the victim’s account in order to change the details of existing payment orders or payment instructions. For example, where a victim’s account has been accessed using stolen personalised security credentials in order to modify the beneficiary of the victim’s existing standing orders or direct debits or, for example, where a victim’s account has been accessed by a fraudster and a batch of payment details have been modified so that when payments are executed by the victim, the funds are unintentionally transferred to a beneficiary or beneficiaries chosen by the fraudster rather than the intended beneficiary. (See CIFAS paper, Table 2 Unlawful obtaining or disclosure of personal data: <https://www2.cipd.co.uk/NR/rdonlyres/710B0AB0-ED44-4BD7-A527-B9AC29B28343/0/empfraud.pdf>)

Credit cards:

Lost and stolen card fraud

This would cover any fraud committed as a result of a lost or stolen card (except where Card non-receipt fraud has occurred). (See FFAUK Fraud Facts 2016 https://www.financialfraudaction.org.uk/fraudfacts16/assets/fraud_the_facts.pdf)

Card non-receipt fraud

This would cover fraud where a payment card is stolen (with or without the details of the PIN also being intercepted) whilst in transit – after the card company sends it out and before the genuine cardholder receives it. The payment card is then used by the fraudster to make transactions. (See FFAUK Fraud Facts 2016 https://www.financialfraudaction.org.uk/fraudfacts16/assets/fraud_the_facts.pdf)

Counterfeit card fraud

This would cover fraud where the fraudster uses a card which has been printed, embossed or encoded so as to purport to be a legitimate card but which is not genuine because the issuer did not authorise the printing, embossing or encoding. (See <https://www.financialfraudaction.org.uk/wp-content/uploads/2016/07/Fraud-the-Facts-A5-final.pdf>)

Account takeover

This would cover fraud using another person’s credit or debit card account, first by gathering information about the intended victim, then contacting their bank or credit card issuer whilst masquerading as the genuine cardholder. The fraudster will then arrange for funds to be transferred out of the account, or will change the address on the account and ask for new or replacement cards to be sent to the new address. (See <https://www.financialfraudaction.org.uk/wp-content/uploads/2016/07/Fraud-the-Facts-A5-final.pdf>)

Theft of card details (card not present)

This would cover fraud where card details have been fraudulently obtained through methods such as unsolicited emails or telephone calls or digital attacks such as malware and data hacks. The card details are then used to undertake fraudulent purchases over the internet, by phone or by mail order. It is also known as ‘card-not-present’ (CNP) fraud. (See <https://www.financialfraudaction.org.uk/fraudfacts16/>)

Data elements

Payments Fraud Report - Table 1		
1A	Please select the payment type which has the highest fraud	<p>Payment types</p> <p>The payment types available in the dropdown list are payment types provided by UK PSPs. These include</p>

	<p>rate by value of fraudulent transactions</p>	<p>different types of credit transfer, direct debit and card payment types.</p> <p>Credit transfers:</p> <p>BACS Direct Credit</p> <p>BACS single payment</p> <p>CHAPS credit transfer</p> <p>Faster Payments (including standing orders)</p> <p>SEPA credit transfer</p> <p>Inter-bank transfer (On-Us) payment</p> <p>International SWIFT payment</p> <p>Direct debits:</p> <p>BACS Direct Debits</p> <p>SEPA Direct debit</p> <p>Cards:</p> <p>Pre-paid Card</p> <p>Credit Card</p> <p>Charge card</p> <p>Debit card/cash card</p> <p>If the PSP provides three or fewer than three payment types it should complete the report in respect of each of those payment types.</p> <p>Calculating the value of fraudulent transactions</p> <p>In order to complete this report, PSPs should, throughout the reporting period, record for each payment type: the number and value of payment transactions and the number and value of payment transactions that are categorised as fraudulent transactions. PSPs should use this data to determine which payment type has the highest fraud rate.</p> <p>PSPs should convert values for non-sterling transactions into sterling using the average ECB reference exchange rate for the applicable reporting period, where available. In other instances PSPs should use the average of the applicable daily spot rate on the Bank of England’s Statistical Interactive Database for the applicable reporting period.</p> <p>‘Highest fraud rate’ means the highest total value of fraudulent transactions.</p> <p>If the PSP executes more than one payment transaction in respect of the same funds (for example placing and transferring the same funds), the PSP should record this transaction and the corresponding value once only.</p>
--	---	--

1B-1E	Volume and value of payment transactions and fraudulent transactions	<p>PSPs should report the following information in respect of the payment type selected at 1A:</p> <ul style="list-style-type: none"> • Total transaction volume (i.e. the number of transactions) for payment type (000s) • Total transaction value for payment type (£ millions) • Fraudulent transaction volume (i.e. the number of transactions) for payment type (000s) • Fraudulent transaction value for payment type (£ millions) <p>Figures should be entered in units of thousands (for volume) or millions (for value). If the figure is less than one thousand or one million, you should enter the figure as a decimal fraction: e.g. if the total fraudulent transaction value is £23,000 this should be entered as 0.023.</p>
1F	Volume of fraudulent transactions initiated through PISP using payment type	<p>PSPs that only provide payment initiation services (i.e. those that do not come into possession of user funds) do not need to answer this question. All other PSPs should enter the number of fraudulent transactions that were initiated by a third party PISP using the payment type selected at 1A. If there were none, PSPs should enter '0'.</p>
1G	Please select the three fraud types attributed to the highest value of fraudulent transactions for the payment type	<p>The PSP should select the three fraud types (from the drop down list given in the form) that cause the most fraud for the payment type selected at 1A. The three fraud types should be those with the three highest total values of fraudulent transactions.</p>
1H	Fraudulent transaction value	<p>For each of the fraud types selected at 1G, the PSP should enter the value of fraudulent transactions for that fraud type. This will allow us to understand the proportion of the total fraud transaction value (entered as 1F) that is attributable to that particular fraud type.</p>
2A and 3A	Please select the payment type which has the second and third highest fraud rate by value of fraudulent transactions	<p>The second and third highest fraud rate should be calculated as set out above in relation to 1A.</p> <p>If the PSP provides three or fewer than three payment types in the reporting period, it should complete the report only in respect of each of those payment types. For example, if the PSP provides two payment types, it should complete sections 1A to H and 2A to H only.</p>
2B-H		<p>PSPs should answer questions 2B to H and 3B to H as set out</p>

3B-H		above in respect of the payment types entered at 2A and 3A (where applicable).
------	--	--

Table 2 - Fraud relating to account information services

This section should be answered by PSPs that provide account information services (AISPs). Registered account information service providers (i.e. PSPs that do not provide any other type of payment service) do not need to answer the questions in Table 1.

4A	Please indicate the number of incidents of fraud	This should be the total number of incidents of fraud that the AISP has recorded. If there are no incidents of fraud, please enter '0' (there is no need to complete the rest of Table 2).
4B	Total value of fraud	<p>Where known, the AISP should report the value of any fraudulent transactions that were executed or initiated (by a third party PSP) as a result of the fraud committed against the AIS user or the AISP.</p> <p>In all other circumstances the AISP should provide an estimation of the loss to the persons defrauded. In this context 'persons' would include the user of the AIS service, any other PSP (such as a credit institution that operated the payment account that the AISP accessed) or the AISP itself. 'Loss' would include loss of funds incurred as a result of fraudulent transactions or loss incurred as an indirect result of the fraud; for example by having to reissue new payment instruments or fix breached security systems.</p> <p>If the fraudulent incident(s) did not result in any financial loss, the AISP should still report the incident, enter '0' at 4B and explain the type of fraud at 4C.</p> <p>AISPs should convert values for non-sterling transactions into sterling using the average ECB reference exchange rate for the applicable reporting period, where available. In other instances AISPs should use the average of the applicable daily spot rate on the Bank of England's Statistical Interactive Database for the applicable reporting period.</p>
4C	Description of fraud	In this section we would expect AISPs to describe the type of fraud that has resulted in the highest total value of fraud (unless the AISP is reporting fraudulent incidents that did not result in any financial losses, as above). The AISP should also explain how the losses were incurred (on the basis that the AISP does not come into possession of the payment transaction funds and is not responsible for the execution of payment transactions).

After SUP 16 Annex 28B (Notes on Completing FSA057 (Payment Services Directive Transactions)) insert the following new Annex as SUP 16 Annex 28C. The text is not underlined.

**16 Annex Small Payment Institution Return
28CD**

This annex consists only of one or more forms. Firms are required to submit the returns using the electronic means made available by the FCA.

FSA057 PAYMENT SERVICES DIRECTIVE TRANSACTIONS

Currency Units: Single

Introductory Matters

Questions 11 to 13 must be answered in GBP

	A	B
11 Total income during the reporting period	<input type="text"/>	
12 Total income derived from payment services during the reporting period	<input type="text"/>	
13 Operating profit / loss of firm in the reporting period	<input type="text"/>	

Transaction and User Information

1 Please report the total number of payment transactions the firm has undertaken during the reporting period	<input type="text"/>
14 Please provide the exchange rate used to convert GBP to EUR in this return	<input type="text"/>
2 Please report the total value of these transactions <i>(The figure should be entered in single units and in both currencies)</i>	EUR <input type="text"/> GBP <input type="text"/>
3 Number of full months in the reporting period in which the firm was registered	<input type="text"/>
15 What is the monthly average of the total value of payment transactions executed over the reporting period including payment transactions executed through UK agents (EUR)?	<input type="text"/>
16 Number of new payment service users in the reporting period	<input type="text"/>

Safeguarding of relevant funds

4 Has your firm voluntarily adopted safeguarding arrangements?	<input type="text"/>
--	----------------------

If you have answered YES to question 4, please indicate which method(s) the firm uses to safeguard relevant funds
(Select all that apply and add the appropriate information)

	A	B	C
5 Placed in a separate account with an authorised credit institution	<input type="text"/>	Credit institution name <input type="text"/>	Country where the account is located <input type="text"/>
6 Invested in approved secure liquid assets held in a separate account with an authorised custodian	<input type="text"/>	Custodian name <input type="text"/>	Country where the account is located <input type="text"/>
7 Covered by an insurance policy with an authorised insurer	<input type="text"/>	Insurer name <input type="text"/>	
8 Covered by a guarantee from an authorised insurer	<input type="text"/>	Insurer name <input type="text"/>	
9 Covered by a guarantee from an authorised credit institution	<input type="text"/>	Credit institution name <input type="text"/>	

Number of Agents

10 Please report the number of agents the firm has	A <input type="text"/>
--	------------------------

Payment Systems

17 Is the firm a member of any sterling interbank payment systems? <i>Select all that apply</i>	<input type="checkbox"/> Bacs <input type="checkbox"/> CHAPS <input type="checkbox"/> Cheque and Credit <input type="checkbox"/> Faster Payments <input type="checkbox"/> LINK <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa <input type="checkbox"/> Other(s)
18 If Other(s), please specify	<input type="text"/>
19 Which, if any, sterling interbank payment systems does your firm access indirectly? <i>Select all that apply</i>	<input type="checkbox"/> Bacs <input type="checkbox"/> CHAPS <input type="checkbox"/> Cheque and Credit <input type="checkbox"/> Faster Payments <input type="checkbox"/> Other(s)
20 If Other(s), please specify	<input type="text"/>
21 Which institution is your firm's primary provider of indirect access to sterling interbank payment systems?	<input type="text"/>

After SUP 16 Annex 28C insert the following new Annex as SUP 16 Annex 28D. The text is not underlined.

**16 Annex Notes on completing FSA057 (Small Payment Institution Return)
28DG**

FSA057 Payment Services Directive Transactions

Valuation

Firms should follow their normal accounting practice wherever possible.

Currency

Some questions require you to answer in GBP, whilst some require you to answer in EUR.

- Elements 11 to 13 should be completed in GBP.
- Element 15 should be completed in EUR.
- Element 2 should be answered in EUR and GBP.

The exchange rate entered at element 14 should be used throughout the return to convert GBP to EUR where required.

Data elements

These are referred to by row first, then by column, so data element 2A will be the element numbered 2 in column A.

INTRODUCTORY MATTERS

Element 11A: State, in GBP, the total income of the whole legal entity, across all activity, for the reporting period. Follow your firm's normal accounting practice when answering this question (i.e. this should be the same figure as the total income figure in your annual accounts).

Element 12A: State, in GBP, the total income for the reporting period which derived from payment services. Follow your normal accounting practice when answering this question.

Element 13A: State, in GBP, the total operating profit or loss of the whole legal entity for the reporting period. Operating profit or loss is calculated after ordinary operating expenses are

deducted from the gross profit, but before interest, tax, dividend payments and any extraordinary items are deducted.

TRANSACTION AND USER INFORMATION

Element 1A: State the number of payment transactions executed by your firm during the reporting period. This includes payment transactions executed by UK agents of your firm. If your firm was not *FCA* authorised or registered for the entire year to which this return relates, you should only include transactions made since your firm was *FCA* authorised or registered.

Element 14A: Please provide the EUR equivalent value for 1 GBP to four decimal places. This should be the market rate as quoted by the European Central Bank in place at the end of the reporting period. The InforEuro website provides historical exchange rates on a month-by-month basis: http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/index_en.cfm

Element 2: State the total amount (i.e. value) of all payment transactions executed during the reporting period. This includes payment transactions executed by agents of your firm. Note that you should enter the total gross value of the payment transactions, not the income generated by them. This figure should be provided in EUR and GBP.

Element 3A: Enter the full number of months during the reporting period that your firm was *FCA* registered. For example, if you are completing this return for the period ending 31 December and you were authorised or registered by the *FCA* on 15 October then you should enter '2'.

Element 15A: Enter the monthly average value of the total payment transactions executed over the reporting period. This should be the EUR figure entered at element 2 divided by the number of full months during the reporting period that your firm was registered (i.e. the number entered at element 3A). If the monthly average is inflated as a result of rounding to full months, you may calculate the monthly average by taking into account the partial month of registration in this figure only.

Element 16A: State the number of new users / customers who have used your firm's payment services during the reporting period. This means those users that have entered into framework contracts or single payment service contracts during the reporting period and includes all customer types, including individual consumers and any corporate customers.

SAFEGUARDING OF CLIENT ASSETS

Element 4A: State whether you voluntarily safeguard relevant funds. Under the PSRs 2017, small PIs can choose to comply with safeguarding requirements in order to offer the same protections over customer funds as authorised PIs must provide. If an SPI does choose to safeguard they will need to apply the same levels of protection as are expected of an authorised PI. We will expect an SPI to tell us if it is choosing to safeguard funds. SPIs that answer 'No' to this question should move to the Number of Agents section.

If you answer 'Yes', to this question you must select the relevant box(es) to identify the method(s) used by the firm to safeguard relevant funds and answer the relevant questions

relating to this method. At least one of the boxes in elements 5 to 9 must be selected.

NUMBER OF AGENTS

Element 10A: State the number of agents in the UK that you have registered to undertake payment services.

PAYMENT SYSTEMS

Element 17A: If your firm is a member of any sterling interbank payment systems, select the appropriate system(s) from the drop-down list. This means where you have a direct relationship with the operators of the payment system.

Element 19A: If your firm accesses, on an indirect basis, any sterling interbank payment systems, select the appropriate system(s) from the drop-down list. This means where the PSP indirectly accesses payment systems through the services of another PSP that is a direct participant or member of that payment system.

Element 21A: If your firm accesses any sterling interbank payment systems on an indirect basis select the institution that is the primary provider of that indirect access.

After SUP 16 Annex 30G (Small electronic money institutions – total outstanding electronic money return) insert the following new Annex as SUP 16 Annex 30H. The text is not underlined.

**16 Annex Authorised electronic money institution questionnaire
30HD**

This annex consists only of one or more forms. Firms are required to submit the returns using the electronic means made available by the FCA.

FIN060 Authorised Electronic Money Institution Questionnaire

Section 1: Income Statement

*Firm annual income for the legal entity only
Section 1 must be answered in GBP*

- 1 Total income during reporting period
- 2 Total income during reporting period derived from e-money issuance and related payment services
- 3 (Where relevant) total income during reporting period derived from unrelated payment services
- 4 Total operating profit / loss of legal entity during reporting period

A

Section 2: EMRs and PSRs 2017 activity

Section 2(a): EMRs activity

- 5 How many full months in the reporting period has the firm been authorised?
- 6 E-money outstanding at the end of the reporting period (EUR)
- 7 Number of e-money accounts open at the start of the reporting period
- 8 Number of e-money accounts open at end of the reporting period

Section 2(b): PSRs 2017 activity

- 9 Do you carry out any unrelated payment services?
- 10 Number of unrelated payment transactions executed in reporting period
- 11 Total value of unrelated payment transactions executed in reporting period (EUR)

Section 3: Capital resources

Section 3 must be answered in GBP, unless otherwise stated

Section 3(a): Common Equity Tier 1 (CET1) Capital

- 12 CET1 items
- 13 Adjustments to CET1 due to the application of Prudential Filters
- 14 Deductions from CET1 items
- 15 Exemptions from and alternatives to deductions from CET1 items
- 16 Temporary waivers applied to CET1 deductions from own funds
- 17 Total CET1 Capital

B

Section 3(b): Additional Tier 1 (AT1) Capital

- 18 AT1 Items
- 19 Deductions from AT1 items
- 20 Temporary waivers applied to AT1 deductions from own funds
- 21 Total AT1 Capital

Section 3(c): Tier 2 (T2) Capital

- 22 T2 Items
- 23 Deductions from T2 items
- 24 Temporary waivers applied to T2 deductions from own funds
- 25 Total T2 Capital

Section 3(d): Eligible capital for calculating own funds

- 26 CET1 Capital
- 27 AT1 Capital
- 28 Tier 1 Capital
- 29 T2 Capital

A

Total amount

B

Eligible Amount

C

Excess

A Total amount	B Eligible Amount	C Excess

Section 3(e): Total capital resources

- 30 Total capital resources (GBP)
- 31 £/€ exchange rate
- 32 Total capital resources (EUR)

Section 4: Capital requirements for unrelated payment services

*Sections 4(b) to 4(d) must be answered in EUR
Please only answer the following questions if you have answered 'Yes' to Question 9*

Section 4(a): Method used to calculate ongoing requirements

A

- 33 Please indicate which method your firm uses to calculate its own funds requirement

--

Section 4(b): Method A calculation

- 34 Total fixed overheads for preceding year
- 35 Own funds requirement (10% of total fixed overheads)

Section 4(c): Method B calculation

- 36 Payment volume
- 37 4% of first €5m of payment volume
- 38 2.5% of payment volume between €5m and €10m
- 39 1% of payment volume between €10m and €100m
- 40 0.5% of payment volume between €100m and €250m
- 41 0.25% of any remaining payment volume
- 42 Total
- 43 Scaling factor
- 44 Own funds requirement

Section 4(d): Method C Calculation

Section 4(d)(i): Relevant indicator

45	Interest income	
46	Interest expenses	
47	Gross commissions and fees received	
48	Gross other operating income	
49	Total Relevant Indicator	

Section 4(d)(ii): Multiplication factor

50	10% of the first €2.5m of the total relevant indicator	
51	8% of the total relevant indicator between €2.5m and €5m	
52	6% of the total relevant indicator between €5m and €25m	
53	3% of the total relevant indicator between €25m and €50m	
54	1.5% of any remaining amount of the total relevant indicator	
55	Total Multiplication Factor	
56	Scaling factor	
57	Own funds requirement	

Section 5: Overall capital requirements

Section 5 must be answered in EUR

58	Average outstanding e-money	
59	Method D own funds requirement for e-money issuance and related payment services	
60	Total own funds requirement including for unrelated payment services	
61	Total capital requirements (the higher of €350,000 or the total own funds requirement)	
62	Capital surplus / deficit	
63	Have the firm's own funds been equal to or greater than its own funds requirement at all time throughout the reporting period?	

Section 6: Method of Safeguarding

	A	B	C	D
	E-money	Unrelated Payment Services	Credit institution name	Country where the account is located
64	Placed in a separate account with an authorised credit institution			
			Custodian name	Country where the account is located
65	Invested in approved secure liquid assets held in a separate account with an authorised custodian			
66	Covered by an insurance policy with an authorised insurer		Insurer name	
67	Covered by a guarantee from an authorised insurer		Insurer name	
68	Covered by a guarantee from an authorised credit institution		Credit institution name	

Section 7: Agents

69	Please report the number of agents the firm has	
----	---	--

Section 8: Payment systems

70	Is the firm a member of any sterling interbank payment systems? <i>Select all that apply</i>	<input type="checkbox"/> Bacs <input type="checkbox"/> CHAPS <input type="checkbox"/> Cheque and Credit <input type="checkbox"/> Faster Payments <input type="checkbox"/> LINK <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa <input type="checkbox"/> No <input type="checkbox"/> Other(s)
71	If Other(s), please specify	
72	Which, if any, sterling interbank payment systems does your firm access indirectly? <i>Select all that apply</i>	<input type="checkbox"/> Bacs <input type="checkbox"/> CHAPS <input type="checkbox"/> Cheque and Credit <input type="checkbox"/> Faster Payments <input type="checkbox"/> None <input type="checkbox"/> Other(s)
73	If Other(s), please specify	
74	Which institution is the firm's primary provider of indirect access to sterling interbank payment systems?	

Section 9: Providers of account information services and/or payment initiation services

Account information services (AIS)

Please only answer the following questions if you provide account information services

	A	B
75	How many different payment accounts have been accessed by the firm in the reporting period for the purposes of providing AIS?	
76	How many customers have used the firm's AIS in the reporting period?	
77	Please enter the minimum monetary amount of the professional indemnity insurance (PII) or comparable guarantee calculated in accordance with the EBA's Guidelines (EUR)	
78	Please enter the amount of coverage of the PII policy or comparable guarantee (EUR)	
79	Has the minimum monetary amount, the insurance provider or the terms and conditions of the PII policy (or where relevant, the guarantor and terms of the guarantee) changed in any way since the information was last submitted to the FCA?	If yes, please explain

Payment initiation services (PIS)

Please only answer the following questions if you provide payment initiation services

80	How many different payment accounts have been accessed by the EMI in the reporting period for the purposes of providing PIS?	
81	How many payment transactions has the firm initiated in the reporting period?	
82	What is the total value of all payment transactions initiated by the firm during the reporting period? (EUR)	
83	Please enter the minimum monetary amount of the PII or comparable guarantee calculated in accordance with the EBA's Guidelines (EUR)	
84	Please enter the amount of coverage of the PII or comparable guarantee (EUR)	
85	Has the insurance provider or the terms and conditions of the PII policy (or where relevant, the guarantor and terms of the guarantee) changed in any way since the information was last submitted to the FCA?	If yes, please explain

After SUP 16 Annex 30H insert the following new Annex as SUP 16 Annex 30I. The text is not underlined.

16 Annex Notes on completing authorised electronic money institution questionnaire 30IG

FIN060 Authorised Electronic Money Institution Questionnaire

Valuation

Firms should follow their normal accounting practice wherever possible.

Currency

Some questions require you to answer in GBP, whilst some require you to answer in EUR. The exchange rate entered at element 31 should be used throughout the return to convert GBP to EUR where required.

- Elements 1 to 4 and 12 to 30 must be completed in GBP.
- All other monetary answers must be in EUR.

Figures should be entered in single units in the currency specified. For example, €1,234,567.50 should be entered as 1234567.

Section 1: Income Statement

Element 1: State, in GBP, the total income of the legal entity, across all activity, for the reporting period. Follow your firm's normal accounting practice when answering this question (i.e. this should be the same figure as the total income figure in your annual accounts).

Element 2: State, in GBP, the total income for the reporting period, derived from the issuance of e-money and related payment services. Follow your normal accounting practice when answering this question. 'Related payment services' means those payment services that are related to the issuance of e-money.

Element 3: State, in GBP, the total income for the reporting period, derived from the provision of unrelated payment services. Follow your normal accounting practice when answering this question. 'Unrelated payment services' means those payment services (as defined in the Payment Services Regulations 2017) that are not related to the issuance of e-money. If you do not provide unrelated payment services, please enter '0'.

Element 4: State, in GBP, the total operating profit or loss of the legal entity for the reporting

period. Operating profit or loss is calculated after ordinary operating expenses are deducted from the gross profit, but before interest, tax, dividend payments and any extraordinary items are deducted.

Section 2: EMRs and PSRs 2017 activity

Section 2(a): EMRs activity

Element 5: Enter the full number of months during the reporting period that your firm was *FCA* authorised or registered. For example, if you are completing this return for the period ending 31 December and you were authorised or registered by the *FCA* on 15 October then you should enter '2'.

Element 6: State (in EUR) the amount of e-money that was outstanding at the end of the period to which this return relates.

Elements 7 and 8: State the number of e-money accounts open at the start and end of the reporting period. This includes all customer types (consumers and corporates). If a customer has multiple accounts, you should include each account in the total.

Section 2(b): PSRs 2017 activity

Element 9: 'Unrelated payment services' means payment services as defined in the PSRs 2017 that are not related to the issuance of e-money. If the answer to this question is 'No' you do not need to answer questions 10 and 11 or Section 4: Capital requirements for unrelated payment services.

Element 10: State the number of unrelated payment transactions executed by your firm during the reporting period. This includes payment transactions executed by agents of your firm.

Element 11: State, in EUR, the total value of all the unrelated payment transactions executed during the reporting period. This includes payment transactions executed by agents of your firm. Note that you should enter the total gross value of the payment transactions, not the income generated by them.

Section 3: Net capital resources

Section 3 (a-d)

For the purposes of Section 3, please provide, in GBP, a value for Common Equity Tier 1, Additional Tier 1 and Tier 2 capital items. You will also need to provide values for adjustments, deductions, exemptions, and temporary waivers (entering zero where not relevant).

To understand the items that may be used to form 'own funds', firms should consult the PSRs 2017, the Capital Requirements Regulation (EU) 575/2013 (CRR), and the Payment Services and Electronic Money Approach Document.

Regulation 2 of the PSRs 2017 sets out that own funds has the definition given in the CRR Article 4(1)(118). Own funds consist of Tier 1 and Tier 2 items. Tier 1 is formed of Common

Equity Tier 1 and Additional Tier 1. At least 75% of Tier 1 capital must be held as Common Equity Tier 1 capital and Tier 2 capital must be equal to or less than one third of Tier 1 capital. The return will take into account these limits when automatically calculating figures for eligible amounts in elements 26B to 29B – these do not need to be manually entered.

Section 3 (e)

Element 30: This should be the sum of the capital items listed at 28B to 29B.

Element 31: Please provide the EUR equivalent value for 1 GBP to four decimal places. This should be the market rate as quoted by the European Central Bank in place at the end of the reporting period. The InforEuro website provides historical exchange rates on a month-by-month basis: http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/index_en.cfm

Element 32: State the EUR equivalent of element 30 above.

Section 4: Capital requirements for unrelated payment services

These questions are only applicable to an authorised EMI that has answered ‘Yes’ to Q9.

Section 4(a): Method used to calculate ongoing requirements

Element 33: Firms should indicate which of the three methods (Methods A/B/C) they use to calculate their own funds requirement for unrelated payment services (Part 2 of Schedule 2 of the Electronic Money Regulations 2011).

Firms only need to complete those parts of the form that apply to their chosen method of calculating own funds.

If your firm has not completed a full financial year of business, then, in lieu of the figure for the ‘preceding year’ or the ‘previous financial year’, you must use the projected figure(s) that your firm submitted to the *FCA* when applying for authorisation (subject to any adjustments that the *FCA* required or may require).

Please refer to Chapter 9 (Capital resources and requirements) of our Payment Services and Electronic Money Approach Document for further detail on how to calculate the own funds requirement.

Section 4(b): Method A calculation

Element 34: State, in EUR, the total fixed overheads for the preceding year. Please refer to Chapter 9 of our Payment Services and Electronic Money Approach Document for further guidance on fixed overheads.

Element 35: State, in EUR, the figure equal to 10% of the figure you have reported in element 34.

Section 4(c): Method B calculation

Element 36: ‘Payment volume’ means the total value, in EUR, of unrelated payment transactions executed by the firm in the preceding financial year divided by the number of months in that year (paragraph 9(3), Part 2, Schedule 3 of the PSRs 2017). This figure should

include unrelated payment transactions executed by agents.

Element 37: State, in EUR, the figure that equals 4% of the first €5m of payment volume.

Element 38: State, in EUR, the figure that equals 2.5% of payment volume between €5m and €10m. If your firm has undertaken less than €5m in payment volume, insert a zero in this box.

Element 39: State, in EUR, the figure that equals 1% of payment volume between €10m and €100m. If your firm has undertaken less than €10m in payment volume, insert a zero in this box.

Element 40: State, in EUR, the figure that equals 0.5% of payment volume between €100m and €250m. If your firm has undertaken less than €100m in payment volume, insert a zero in this box.

Element 41: State, in EUR, the figure that equals 0.25% of all payment volume over €250m. If your firm has undertaken less than €250m in payment volume, insert a zero in this box.

Element 42: State, in EUR, the sum of the values from elements 37 to 41 above.

Element 43: The ‘scaling factor’ is:

- 0.50 for an authorised EMI that is providing a payment service specified in paragraph 1(f) of Schedule 1 of the PSRs 2017 (money remittance); and
- 1.00 for an authorised EMI that is providing any other payment service specified in paragraph 1(a) to (e) of Schedule 1 of the PSRs 2017.

The scaling factor should be entered to two decimal places.

Element 44: This figure is calculated using the following equation – element 42 x element 43.

Section 4(d): Method C calculation

Relevant Indicator

Element 45 – Element 48: these figures should be entered in EUR and should cover the expenses or income generated over the reporting period. Please refer to Chapter 9 (Capital resources and requirements) of our Payment Services and Electronic Money Approach Document for further detail on the elements that make up the relevant indicator.

Firms should have regard to paragraphs 10(4)(a)-(d), Part 2, Schedule 3 of the PSRs 2017 for the purposes of calculating the relevant indicator:

- each element must be included in the sum with its positive or negative sign;
- income from extraordinary or irregular items must not be used;
- expenditure on the outsourcing of services rendered by third parties may reduce the relevant indicator if the expenditure is incurred from a payment service provider;
- the relevant indicator is calculated on the basis of the twelve-monthly observation at the end of the previous financial year;

- the relevant indicator must be calculated over the previous financial year; and
- audited figures must be used unless they are not available in which case business estimates may be used.

Element 49: The ‘total relevant indicator of income’ is the sum of the amounts stated in elements 45 to 48 above.

Multiplication Factor

Element 50: State, in EUR, the figure that equals 10% of the first €2.5m of the ‘total relevant indicator of income’ (i.e. the figure in element 49).

Element 51: State, in EUR, the figure that equals 8% of the ‘total relevant indicator of income’ between €2.5m and €5m. If your firm’s total relevant indicator of income is less than or equal to €2.5m, you should enter zero in this box.

Element 52: State, in EUR, the figure that equals 6% of the ‘total relevant indicator of income’ between €5m and €25m. If your firm’s total relevant indicator of income is less than or equal to €5m, you should enter zero in this box.

Element 53: State, in EUR, the figure that equals 3% of the ‘total relevant indicator of income’ between €25m and €50m. If your firm’s total relevant indicator of income is less than or equal to €25m, you should enter zero in this box.

Element 54: State, in EUR, the figure that equals 1.5% of the ‘total relevant indicator of income’ over €50m. If your firm’s total relevant indicator of income is less than or equal to €50m, you should enter zero in this box.

Element 55: State, in EUR, the sum of the values of elements 50 to 54 above (the Multiplication Factor).

Element 56: The ‘scaling factor’ is:

- 0.50 for an authorised EMI that is providing a payment service specified in paragraph 1(f) of Schedule 1 PSRs 2017 (money remittance); and
- 1.00 for an authorised EMI that is providing any other payment service specified in paragraph 1(a) to (e) of Schedule 1 PSRs 2017.

The scaling factor should be entered to two decimal places.

Element 57: The own funds requirement is calculated by multiplying the total relevant indicator of income (element 49) by the multiplication factor (element 55) and the scaling factor (element 56).

Section 5: Overall capital requirements

Element 58: You should enter, in EUR, the average outstanding e-money for the last month of the reporting period. ‘Average outstanding e-money’ means the average total amount of

financial liabilities related to e-money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month.

Element 59: This figure is 2% of the average outstanding e-money (method D). This figure should be provided in EUR.

Element 60: Total own funds: for firms that do not provide unrelated payment services, this is the same figure as Element 59. For firms that do provide unrelated payment services, this is the sum of the own funds requirement for unrelated payment services (method A/B/C) as calculated above and the method D own funds requirement at element 59 above. This figure should be provided in EUR.

Element 61: Total capital requirement: enter the higher of €350,000 or the total own funds figure at element 60 (in EUR).

Element 62: This is calculated by subtracting the total capital requirement (element 61) from the total net capital resources (element 32). You must enter the figure with a minus symbol if it is of negative value.

Element 63: Firms are reminded that method D own funds is based on average outstanding e-money, which involves monthly calculations and the figure entered above at element 59 provides a snapshot for that month. Firms must confirm whether own funds have been equal to or greater than the own funds requirement in all months of the reporting period. If the answer to this question is 'No' you should notify us separately with an explanation.

Section 6: Method of Safeguarding

You must select the relevant box(es) to identify the method(s) used by the firm to safeguard relevant funds. You must provide separate safeguarding information for relevant funds received in exchange for e-money that has been issued and (where relevant) relevant funds received for the purposes of executing unrelated payment transactions.

If you do not provide unrelated payment services you do not need to answer elements 64 to 68.

Section 7: Agents

Element 69: State the number of agents that you have registered to undertake payment services (whether unrelated or related).

Section 8: Payment systems

Element 70: If your firm is a member of any sterling interbank payment systems, select the appropriate system(s) from the drop-down list. This means where you have a direct relationship with the operators of the payment system.

Element 72: If your firm accesses, on an indirect basis, any sterling interbank payment systems,

select the appropriate system(s) from the drop-down list. This means where the EMI indirectly accesses payment systems through the services of another PSP that is a direct participant or member of that payment system.

Element 74: If your firm accesses any sterling interbank payment systems on an indirect basis select the institution that is the primary provider of that indirect access.

Section 9: Providers of account information services or payment initiation services

Account information services (AIS)

(i) Elements 75 to 79 should only be answered by firms providing AIS.

Element 75: State the number of payment accounts that your firm has accessed for the purposes of providing AIS during the reporting period. You should count each individual payment account once, even where it has been accessed multiple times.

Element 76: State the number of customers that have used your firm's AIS in the reporting period. Each customer should be counted once (including where the customer has used the AIS multiple times).

Element 77: State the minimum monetary amount (in EUR) of the professional indemnity insurance (or comparable guarantee) ('PII') calculated in accordance with the European Banking Authority Guidelines on Professional Indemnity Insurance under PSD2.

Element 78: Please enter the amount of coverage of the PII that is held. This should be entered in EUR. Please use the same conversion rate entered at element 31A.

Element 79: If the terms of your firm's PII have changed in any respect since its authorisation or registration (if this is the first return), or since the last time this report was submitted, please explain here. This includes the insurance cover (i.e. the monetary amount), what the insurance covers (i.e. the losses or circumstances in which the insurance is payable), the terms and conditions, any limits or exclusions or any other change to the policy.

Payment initiation services (PIS)

(ii) Elements 80 to 85 should only be answered by firms providing PIS.

Element 80: State the number of payment accounts that your firm has accessed for the purposes of providing PIS during the reporting period. You should count each individual payment account once, even where it has been accessed multiple times.

Element 81: This should be the total number of payment transactions initiated using your firm's PIS in the reporting period.

Element 82: This should be the total value of the payment transactions initiated using your firm's PIS in the reporting period.

Element 83: State the minimum monetary amount (in EUR) of the professional indemnity insurance (or comparable guarantee) ('PII') calculated in accordance with the European

Banking Authority Guidelines on Professional Indemnity Insurance under PSD2.

Element 84: Please enter the amount of coverage of the PII that is held. This should be entered in EUR.

Element 85: If the terms of your firm's PII has changed in any respect since its authorisation or registration (if this is the first return), or since the last time this report was submitted, please explain here. This includes the insurance cover (i.e. the monetary amount), what the insurance covers (i.e. the losses or circumstances in which the insurance is payable), the terms and conditions, any limits or exclusions or any other change to the policy.

After SUP 16 Annex 30I insert the following new Annex as SUP 16 Annex 30J. The text is not underlined.

16 Annex Small electronic money institution questionnaire 30JD

This annex consists only of one or more forms. Firms are required to submit the returns using the electronic means made available by the FCA.

FIN060 Small E-money Institution Questionnaire

Section 1: Income Statement

*Firm annual income for the legal entity only
Section 1 must be answered in GBP*

	A
1 Total income during reporting period	
2 Total income during reporting period derived from e-money issuance and related payment services	
3 Total income during reporting period derived from unrelated payment services	
4 Total operating profit / loss of legal entity during reporting period	

Section 2: EMRs and PSRs 2017 activity

Section 2(a): EMRs activity

5 How many full months in the reporting period has the firm been registered?	
6 Total e-money outstanding at the end of the reporting period (EUR)	
7 Average outstanding e-money for the last month in the reporting period (EUR)	
8 Number of e-money accounts open at the start of the reporting period	
9 Number of e-money accounts open at the end of the reporting period	

Section 2(b): PSRs 2017 activity

If your firm does not provide unrelated payment services, please enter "0" for each of these questions.

10 Number of unrelated payment transactions executed in reporting period	
11 Total value of unrelated payment transactions executed in reporting period (EUR)	
12 What is the monthly average of the total amount of unrelated payment transactions executed over the reporting period (including payment transactions executed through UK agents)?	

Section 3: Capital requirements for e-money

13 Has the firm generated average outstanding e-money of €500,000 or more at any point during the reporting period?	Yes/No
---	--------

If yes, please answer the following questions on capital requirements and resources

14 Capital requirement as at the end of the reporting period (EUR)	
--	--

Section 4: Capital resources

Section 4 must be answered in GBP, unless otherwise stated

Section 4(a): Common Equity Tier 1 (CET1) Capital

	B
15 CET1 items	
16 Adjustments to CET1 due to the application of Prudential Filters	
17 Deductions from CET1 items	
18 Exemptions from and alternatives to deductions from CET1 items	
19 Temporary waivers applied to CET1 deductions from own funds	
20 Total CET1 Capital	

Section 4(b): Additional Tier 1 (AT1) Capital

21 AT1 Items	
22 Deductions from AT1 items	
23 Temporary waivers applied to AT1 deductions from own funds	
24 Total AT1 Capital	

Section 4(c): Tier 2 (T2) Capital

25 T2 Items	
26 Deductions from T2 items	
27 Temporary waivers applied to T2 deductions from own funds	
28 Total T2 Capital	

Section 4(d): Eligible capital for calculating own funds

	A Total amount	B Eligible amount	C Excess
29 CET1 Capital			
30 AT1 Capital			
31 Tier 1 Capital			
32 T2 Capital			

Section 4(e): Total capital resources

33 Total capital resources (GBP)	
34 £/€ exchange rate	
35 Total capital resources (EUR)	

Section 4(f): Total capital surplus / deficit

36 Capital surplus / deficit (EUR)	
37 Have the firm's own funds been equal to or greater than its own funds requirement (where applicable) at all times throughout the reporting period?	Yes / No

Section 6: Method of Safeguarding

	A Electronic Money	B Unrelated Payment Services	C Credit institution name	D Country where the account is located
38 Placed in a separate account with an authorised credit institution				
39 Invested in approved secure liquid assets held in a separate account with an authorised custodian			Custodian name	Country where the account is located
40 Covered by an insurance policy with an authorised insurer			Insurer name	
41 Covered by a guarantee from an authorised insurer			Insurer name	
42 Covered by a guarantee from an authorised credit institution			Credit institution name	

Section 7: Agents

43 Please report the number of agents the firm has

A

Section 8: Payment systems

44 Is the firm a member of any sterling interbank payment systems?
Select all that apply

Bacs
CHAPS
Cheque and Credit
Faster Payments
LINK
MasterCard
Visa
No
Other(s)

45 If Other(s), please specify

--

46 Which, if any, sterling interbank payment systems does your firm access indirectly?
Select all that apply

Bacs
CHAPS
Cheque and Credit
Faster Payments
None
Other(s)

47 If Other(s), please specify

--

48 Which institution is the firm's primary provider of indirect access to sterling interbank payment systems?

--

After SUP 16 Annex 30J insert the following new Annex as SUP 16 Annex 30K. The text is not underlined.

**16 Annex Notes on completing small e-money institution questionnaire
30KG**

FIN060 Small E-Money Institution Questionnaire

Valuation

Firms should follow their normal accounting practice wherever possible.

Currency

Some questions require you to answer in GBP, whilst some require you to answer in EUR. The exchange rate entered at element 34 should be used throughout the return to convert GBP to EUR where required.

- Elements 1 to 4 and 15 to 33 must be completed in GBP.
- All other monetary answers must be in EUR.

Figures should be entered in single units in the currency specified. For example, €1,234,567.50 should be entered as 1234567.

Section 1: Income Statement

Element 1: State, in GBP, the total income of the legal entity, across all activity, for the reporting period. Follow your firm's normal accounting practice when answering this question (i.e. this should be the same figure as the total income figure in your annual accounts).

Element 2: State, in GBP, the total income for the reporting period, derived from the issuance of e-money and related payment services. Follow your normal accounting practice when answering this question. 'Related payment services' means those payment services that are related to the issuance of e-money.

Element 3: State, in GBP, the total income for the reporting period, derived from the provision of unrelated payment services. Follow your normal accounting practice when answering this question. 'Unrelated payment services' means those payment services (as defined in the Payment Services Regulations 2017) that are not related to the issuance of e-money. If you do not provide unrelated payment services, please enter '0'.

Element 4: State, in GBP, the total operating profit or loss of the legal entity for the reporting

period. Operating profit or loss is calculated after ordinary operating expenses are deducted from the gross profit, but before interest, tax, dividend payments and any extraordinary items are deducted.

Section 2: EMRs and PSRs 2017 activity

Section 2(a): EMRs activity

Element 5: Enter the full number of months during the reporting period that your firm was *FCA* authorised or registered. For example, if you are completing this return for the period ending 31 December and you were authorised or registered by the *FCA* on 15 October then you should enter '2'.

Element 6: State, in EUR, the amount of e-money that was outstanding at the end of the period to which this return relates.

Elements 7: You should enter, in EUR, the average outstanding e-money for the last month of the reporting period. 'Average outstanding e-money' means the average total amount of financial liabilities related to e-money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month.

Element 8 and 9: State the number of e-money accounts open at the start and end of the reporting period. This includes all customer types (consumers and corporates). If a customer has multiple accounts, you should include each account in the total.

Section 2(b): PSRs 2017 activity

'Unrelated payment services' means payment services as defined in the PSRs 2017 that are not related to the issuance of e-money. If you do not provide unrelated payment services please enter '0' for each of these questions.

Element 10: State the number of unrelated payment transactions executed by your firm during the reporting period. This includes payment transactions executed by agents of your firm.

Element 11: State, in EUR, the total value of all the unrelated payment transactions executed during the reporting period. This includes payment transactions executed by UK agents of your firm. Note that you should enter the total gross value of the payment transactions, not the income generated by them.

Element 12: Enter, in EUR, the monthly average value of the total unrelated payment transactions executed over the reporting period. This should be the figure entered at element 11 divided by the number of full months during the reporting period that your firm was registered (i.e. the number entered at element 10). If the monthly average is inflated as a result of rounding to full months, you may calculate the monthly average by taking into account the partial month of registration in this figure only.

Section 3: Capital requirements for e-money

Element 13: ‘Average outstanding e-money’ means the average total amount of financial liabilities related to e-money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month. If your firm has generated average outstanding e-money of €500,000 or more for any month of the reporting period you should enter ‘Yes’. This triggers the requirement to hold own funds (regulation 19(2) of the Electronic Money Regulations 2011).

If the answer to Element 13 is ‘Yes’ you must answer elements 30 to 37.

Element 14: This figure is 2% of the average outstanding e-money (element 7). This figure should be provided in EUR.

Section 4: Net capital resources

Sections 4(a-d)

For the purposes of Section 4, please provide a value for Common Equity Tier 1, Additional Tier 1 and Tier 2 capital items. You will also need to provide values for adjustments, deductions, exemptions, and temporary waivers (entering zero where not relevant).

To understand the items that may be used to form ‘own funds’, firms should consult the PSRs 2017, the Capital Requirements Regulation (EU) 575/2013 (CRR), and the Payment Services and Electronic Money Approach Document.

Regulation 2 of the PSRs 2017 sets out that own funds has the definition given in the CRR Article 4(1)(118). Own funds consist of Tier 1 and Tier 2 items. Tier 1 is formed of Common Equity Tier 1 and Additional Tier 1. At least 75% of Tier 1 capital must be held as Common Equity Tier 1 capital and Tier 2 capital must be equal to or less than one third of Tier 1 capital. The return will take into account these limits when calculating a figure for total capital resources.

Section 4(e): Total capital resources

Element 30: This should be the sum of the capital items listed at 31B to 32B.

Element 31: Please provide the EUR equivalent value for 1 GBP to four decimal places. This should be the market rate as quoted by the European Central Bank in place at the end of the reporting period. The InforEuro website provides historical exchange rates on a month-by-month basis: http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/index_en.cfm

Element 32: State the EUR equivalent of element 30 above.

Section 4(f): Total capital surplus / deficit

Element 36: This is calculated by subtracting the capital requirement (element 14) from the total net capital resources (element 32). You must enter the figure with a minus symbol if it is of negative value.

Element 37: Firms are reminded that the capital requirement (or own funds) is based on average outstanding e-money, which involves monthly calculations. The figures entered above at elements 14 and 36 provide a snapshot as at the end of the reporting period. Firms must confirm whether own funds have been equal to or greater than the own funds requirement in all months of the reporting period. If the answer to this question is 'No' you should notify us separately with an explanation.

Section 6: Method of Safeguarding

You must select the relevant box(es) to identify the method(s) used by the firm to safeguard relevant funds. You must provide separate safeguarding information for relevant funds received in exchange for e-money that has been issued and (where relevant) relevant funds received for the purposes of executing unrelated payment transaction.

If you do not provide unrelated payment services you do not need to answer elements 36 to 42.

Section 7: Agents

Element 43: State the number of agents that you have registered to undertake payment services in the UK (whether unrelated or related).

Section 8: Payment systems

Element 44: If your firm is a member of any sterling interbank payment systems, select the appropriate system(s) from the drop-down list. This means where you have a direct relationship with the operators of the payment system.

Element 46: If your firm accesses, on an indirect basis, any sterling interbank payment systems, select the appropriate system(s) from the drop-down list. This means where your firm indirectly accesses payment systems through the services of another PSP that is a direct participant or member of that payment system.

Element 48: If your firm accesses any sterling interbank payment systems on an indirect basis select the institution that is the primary provider of that indirect access.

Amend the following as shown.

TP 1 Transitional provisions

...

TP 1.11 Payment services and electronic money returns

<u>(1)</u>	<u>(2) Material to which the transitional provision applies</u>	<u>(3)</u>	<u>(4) Transitional provision</u>	<u>(5) Transitional provision: dates in force</u>	<u>(6) Handbook provision: coming into force</u>
1	<u>SUP 16.3.3D to SUP 16.3.4D and SUP 16.15.8D</u>	D	<u>The changes effected by the Payment Services Instrument 2017 to SUP 16.3.3D to SUP 16.3.4D and SUP 16.15.8D do not apply where a <i>payment institution or electronic money institution</i> is required to submit a return covering a reporting period ending on 12 January 2018 or earlier. SUP 16.3.3D to SUP 16.3.4D and SUP 16.15.8D apply as they stood immediately before 13 January 2018 with respect to periodic reporting of information to the FCA covering a period ending before 12 January 2018.</u>	<u>13 January 2018 to 1 April 2018</u>	<u>13 January 2018</u>
2	<u>SUP 16.3.3D to SUP 16.3.4D and SUP 16.15.8D</u>	G	<u>The effect of (1) is that an <i>authorised payment institution</i> or a <i>small payment institution</i> should submit the annual return FSA056 or FSA057 in the pre-13 January 2018 format in respect of a reporting period that ends on or before 12 January 2018. The due dates for submission after the end of the reporting period are the same before and after 13 January 2018.</u> <u>The effect of (1) is also that an <i>authorised electronic money institution</i> should submit FSA059 to FSA063 in the pre-13 January 2018 formats (rather than the new return FIN060) in respect of a</u>	<u>13 January 2018 to 1 April 2018</u>	<u>13 January 2018</u>

			<p><u>reporting period that ends on or before 12 January 2018. The reporting frequencies for these returns are half-yearly, calculated from the <i>authorised electronic money institution's accounting reference date</i>, and the due dates for submission are within 30 <i>business days</i> following the end of the reporting period.</u></p> <p><u>A <i>small electronic money institution</i> should submit FSA064 in the pre-13 January 2018 format (rather than the new return FIN060) in respect of a reporting period that ends on or before 12 January 2018. The reporting frequency for this return is half-yearly, calculated from the <i>small electronic money institution's accounting reference date</i>, and the due date for submission is within 30 <i>business days</i> following the end of the reporting period.</u></p>		
<u>3</u>	<u>SUP 16.3.3D to SUP 16.13.4D and SUP 16.15.8D</u>	<u>D</u>	<p><u>(1) This direction applies to an <i>authorised payment institution, registered account information service provider, authorised electronic money institution, or small electronic money institution with an accounting reference date falling between 13 January 2018 and 30 March 2018 (inclusive).</i></u></p> <p><u>(2) A <i>person to whom this direction applies</i> must, in respect of the reporting period that ends on the <i>accounting reference date</i> between 13 January 2018 and 30 March 2018, complete and submit the return specified in the second column of the table in <u>SUP 16.13.4D or SUP 16.15.8D</u> (as applicable) within 30 <i>business days</i> of 31 March 2018.</u></p>	<u>13 January 2018 to 18 May 2018</u>	<u>13 January 2018</u>
<u>4</u>	<u>SUP 16.3.3D to SUP 16.3.4D and</u>	<u>G</u>	<u>The effect of (3) is that an <i>authorised payment institution or registered account information</i></u>	<u>13 January 2018 to 18 May 2018</u>	<u>13 January 2018</u>

	<u>SUP</u> <u>16.15.8D</u>		<p><u>service provider</u> should submit the return FSA056 by 11 May 2018 if the return relates to a reporting period that ends between 13 January 2018 and 30 March 2018 (inclusive).</p> <p>The effect of (3) is also that an <u>authorised electronic money institution</u> or <u>small electronic money institution</u> should submit the return FIN060 by 11 May 2018 if the return relates to a reporting period that ends between 13 January 2018 and 30 March 2018 (inclusive).</p>		
<u>5</u>	<u>SUP</u> <u>16.13.4D</u> and <u>SUP</u> <u>16.15.8D</u>	<u>D</u>	<p><u>An authorised payment institution, registered account information service provider, authorised electronic money institution, or small electronic money institution</u> required to submit a return covering a reporting period beginning before and ending after 13 January 2018 is required to answer the ‘new return questions’ only in respect of the period beginning on the 13 January 2018 and ending on its <u>accounting reference date</u>.</p> <p>‘New return questions’ means:</p> <p>(a) for an <u>authorised payment institution</u>, questions 68, 76,-80 and 84-86 in FSA056 (Authorised Payment Institution Capital Adequacy Return);</p> <p>(b) for a <u>registered account information service provider</u>, question 68 in FSA056 (Authorised Payment Institution Capital Adequacy Return);</p> <p>(c) for an <u>authorised electronic money institution</u>, questions 2–3, 10-11, 75-76 and 80-82, in FIN060 (Authorised Electronic Money Institution Questionnaire); and</p> <p>(d) for a <u>small electronic money</u></p>	<u>13 January</u> <u>2018 to 1</u> <u>April 2019</u>	<u>13 January</u> <u>2018</u>

			<u>institution, questions 2-3 and questions 10-12 in FIN060 (Small E-Money Institution Questionnaire).</u>		
<u>6</u>	<u>SUP 16.13.4D and SUP 16.15.8D</u>	<u>G</u>	<u>The effect of (5) is that, even if part of the reporting period to be covered by a return falls earlier than 13 January 2018, the authorised payment institution, registered account information service provider, authorised electronic money institution or small electronic money institution is nonetheless required to submit the return in the new form set out in the Payment Services Instrument 2017, but is only required to answer the new questions added by the Payment Services Instrument 2017 in relation to the part of the reporting period that falls on or after 13 January 2018.</u>	<u>13 January 2018 to 1 April 2019</u>	<u>13 January 2018</u>
<u>7</u>	<u>SUP 16.15.8D</u>	<u>G</u>	<u>Electronic money institutions are reminded that the return FIN060 is to be completed in respect of a reporting period of 12 months. This means that electronic money institutions using FIN060 for the first time should include in that report data from the preceding 12 months, irrespective of whether some of that data has already been reported to the FCA as a result of the previous half yearly reporting frequency.</u>	<u>13 January 2018 to 1 April 2019</u>	<u>13 January 2018</u>

Part 2: Comes into force on 1 April 2018

16 Annex 27A

In this Annex, the entire data item FSA056 is deleted, and replaced by '[deleted]'.

16 Annex 27B

In this Annex, the guidance notes relating to FSA056 are deleted and replaced, in each case, by '[deleted]'.

16 Annex 28A

In this Annex, the entire data item FSA057 is deleted, and replaced by '[deleted]'.

16 Annex 28B

In this Annex, the guidance notes relating to FSA057 are deleted and replaced, in each case, by '[deleted]'.

16 Annex 30A

In this Annex, the entire data item FSA059 is deleted, and replaced by '[deleted]'.

16 Annex 30B

In this Annex, the entire data item FSA060 is deleted, and replaced by '[deleted]'.

16 Annex 30C

In this Annex, the entire data item FSA061 is deleted, and replaced by '[deleted]'.

16 Annex 30D

In this Annex, the entire data item FSA062 is deleted, and replaced by '[deleted]'.

16 Annex 30E

In this Annex, the entire data item FSA063 is deleted, and replaced by '[deleted]'.

16 Annex 30F

In this Annex, the entire data item FSA064 is deleted, and replaced by '[deleted]'.

Annex H

Amendments to the Decision Procedure and Penalties manual (DEPP)

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

2 Annex 1 Warning notices and decision notices under the Act and certain other enactments

Note: Third party rights and access to *FCA* material apply to the powers listed in this Annex where indicated by an asterisk * (see *DEPP* 2.4)

...

Payment Services Regulations	Description	Handbook reference	Decision maker
Regulations 9(7) and 14, 15 and <u>19</u>	when the <i>FCA</i> is proposing to refuse an application for authorisation as an <i>authorised payment institution</i> , or for registration as a <i>small payment institution</i> , <u>or for registration as an <i>account information service provider</i></u> , or to impose a requirement, or to refuse an application to vary an authorisation <u>or existing registration</u>		<i>Executive procedures</i>
Regulations 9(8)(a) and 14, 15 and <u>19</u>	when the <i>FCA</i> is deciding to refuse an application for authorisation as an <i>authorised payment institution</i> , or for registration of a <i>small payment institution</i> , <u>or for registration as an <i>account information service provider</i></u> , or to impose a requirement, or to refuse an application to vary an authorisation		<i>Executive procedures</i> where no representations are made in response to a warning notice, otherwise by the <i>RDC</i>

	<u>or existing registration</u>		
Regulations 10(2), and 10(3)(a) and 14, <u>15 and 19</u>	when the <i>FCA</i> is proposing or deciding to either cancel an <i>authorised payment institution's</i> authorisation, or to cancel a <i>small payment institution's institution or account information service provider's</i> registration, otherwise than at that institution's own request*		<i>RDC</i>
Regulations 24(2) <u>28(1) and 26</u>	when the <i>FCA</i> is proposing to refuse to register an <i>EEA branch</i> or an <i>EEA registered account information service provider</i>		<i>Executive procedures</i>
Regulations 24(3)(a) <u>28(2)(a) and 26</u>	when the <i>FCA</i> is deciding to refuse to register an <i>EEA branch</i> or an <i>EEA registered account information service provider</i>		<i>Executive procedures</i> where no representations are made in response to a warning notice, otherwise by the <i>RDC</i>
Regulations 24(2) and 24(3)(a) <u>28(1), 28(2)(a) and 26</u>	when the <i>FCA</i> is proposing or deciding to cancel the registration of an <i>EEA branch*</i> or an <i>EEA registered account information service provider</i>		<i>RDC</i>
Regulation 29(9) <u>34(8)</u>	when the <i>FCA</i> is proposing to refuse an application for registration as an <i>agent</i>		<i>Executive procedures</i>
Regulation 29(10)(a) <u>34(9)(a)</u>	when the <i>FCA</i> is deciding to refuse an application for registration as an <i>agent</i>		<i>Executive procedures</i> where no representations are made in

			response to a warning notice, otherwise by the <i>RDC</i>
Regulations 30(2) <u>35(2)</u> and 30(3)(a) <u>35(3)(a)</u>	when the <i>FCA</i> is proposing or deciding to remove an <i>agent</i> from the <i>Financial Services Register</i> otherwise than at the request of a <i>payment institution</i> *		<i>RDC</i>
Regulations 86(1) <u>112(1)</u> and 86(3) <u>112(3)</u>	when the <i>FCA</i> is proposing ₂ or deciding ₂ to impose a financial penalty*		<i>RDC</i>
Regulations 86(1) <u>112(1)</u> and 86(3) <u>112(3)</u>	when the <i>FCA</i> is proposing ₂ or deciding ₂ to publish a statement that a <i>payment service provider</i> has contravened the <i>Payment Services Regulations</i> *		<i>RDC</i>
Regulations 89(1) <u>115(1)</u> and 89(3) <u>115(3)</u>	when the <i>FCA</i> is proposing, or deciding, to exercise its powers to require restitution*		<i>RDC</i>
Regulation 121(7)	when the <i>FCA</i> is proposing to decide that it has not received the required information or that the required conditions are not met as concerns deemed authorisation		<i>Executive Procedures</i>
Regulation 121(8)	when the <i>FCA</i> is deciding that it has not received the required information or that the required conditions are not met as concerns deemed authorisation		<i>Executive procedures</i> where no representations are made in response to a warning notice, otherwise by the <i>RDC</i>

Schedule 4A <u>5</u> paragraph 5(6)	when the <i>FCA</i> is proposing to refuse an application to vary the period, event or condition of a prohibition, or to remove a prohibition, or to vary or remove a restriction		<i>Executive procedures</i>
Schedule 4A <u>5</u> paragraph 5(7)	when the <i>FCA</i> is deciding to refuse an application to vary the period, event or condition of a prohibition, or to remove a prohibition, or to vary or remove a restriction		<i>Executive procedures, where no representations are made in response to a warning notice, otherwise by the RDC</i>
Schedule <u>5</u> <u>6</u> paragraph 1	when the <i>FCA</i> is proposing or deciding to publish a statement that a relevant person has been knowingly concerned with a contravention of the <i>Payment Services Regulations</i> (Note 2)		<i>RDC</i>
Schedule <u>5</u> <u>6</u> paragraph 1	when the <i>FCA</i> is proposing or deciding to impose a financial penalty against a relevant person (Note 2)		<i>RDC</i>
<p>Notes:</p> <p>(2) The <i>Payment Services Regulations</i> do not require third party rights and access to <i>FCA</i> material when the <i>FCA</i> exercises this power. However, the <i>FCA</i> generally intends to allow for third party rights and access to material when exercising this power.</p>			

...

2 Annex 2 Supervisory notices

...

Payment Services	Description	Handbook	Decision maker
------------------	-------------	----------	----------------

Regulations		reference	
11(6) 11(9) 11(10)(b) 14 <u>12(6), 12(9),</u> <u>12(10)(b), 15 and</u> <u>19</u>	When <u>when</u> the <i>FCA</i> is exercising its powers to vary a person's authorisation on its own initiative		<i>RDC</i> or <i>Executive procedures</i> See also <i>DEPP</i> 3.4 (Note 1)
Schedule 4A 5 , paragraphs 1(1), 1(2), 2(2)(a), 2(2)(b), 2(3), 4(6) and 4(7)	when <u>the <i>FCA</i> is</u> exercising its power to impose a prohibition or restriction, or to vary a restriction		<i>RDC</i> or <i>executive procedures</i> (Note 2) See also <i>DEPP</i> 3.4
...			

Annex I

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

INTRO 1 Introduction

...

It refers to relevant provisions in the *Act* and in transitional provisions made by the Treasury under the *Act*. It includes rules and directions made by the *FCA* and rules made (and standard terms set) by *FOS Ltd* with the consent or approval of the *FCA*.

The powers to make rules and directions (or set *standard terms*) relating to *firms*, *payment service providers*, *electronic money issuers*, *CBTL firms*, *designated credit reference agencies*, *designated finance platforms* and *VJ participants* derive from various legislative provisions; but the rules (and *standard terms*) have been co-ordinated to ensure that they are identical, wherever possible.

...

1 Treating complainants fairly

1.1 Purpose and application

...

Application to firms

...

1.1.3 R ...

1.1.3A D The complaints reporting directions apply to a firm that provides payment services or issues electronic money in respect of:

(1) complaints from payment service users; and

(2) complaints from electronic money holders that are eligible complainants

concerning activities carried on from an establishment maintained by the firm in the United Kingdom.

...

- 1.1.5A R DISP 1.6.2A, DISP 1.6.2B (rules relating to EMD complaints and PSD complaints), the ~~The complaints reporting rules, the complaints reporting directions~~ and the complaints data publication rules do not apply to a credit union.

...

Application to payment services providers that are not firms

- 1.1.10A R This chapter (except ~~the complaints record rule, the complaints reporting rules and the complaints data publication rules~~) applies to payment service providers that are not firms in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by ~~it~~ that payment service provider or its *agent* in the *United Kingdom*.

- 1.1.10AB D The complaints reporting directions apply to a payment service provider that is not a firm in respect of complaints from payment service users concerning activities carried on from an establishment maintained by that payment service provider or its agent in the United Kingdom.

- 1.1.10B G (1) In this sourcebook, the term *payment service provider* does not include ~~full~~ *credit institutions* (which are covered by this sourcebook as *firms*), but it does include *small electronic money institutions* and registered account information service providers.
- (2) ~~Although payment service providers are not required to comply with the complaints record rule, it is in their interest to retain records of complaints so that these can be used to assist the Financial Ombudsman Service should this be necessary. [deleted]~~

Application to electronic money issuers that are not firms

- 1.1.10C R This chapter (except ~~the complaints record rule, the complaints reporting rules and the complaints data publication rules~~) applies to an electronic money issuer that is not a firm in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by ~~it~~ that electronic money issuer or its *agent* in the *United Kingdom*.

- 1.1.10CA D The complaints reporting directions apply to an electronic money issuer that is not a firm in respect of complaints from eligible complainants concerning activities carried on from an establishment maintained by that electronic money issuer or its agent in the United Kingdom.

- 1.1.10D G (1) In this sourcebook, the term *electronic money issuer* does not include *credit institutions*, *credit unions* or municipal banks (which will be carrying on a *regulated activity* if they issue *electronic money* and will be covered by this sourcebook as *firms* in those circumstances), but it does include *small electronic money institutions* and *persons* who meet the conditions set out in regulation 75(1) or regulation

76(1) of the *Electronic Money Regulations*.

- (2) ~~Although *electronic money institutions* are not required to comply with the *complaints record rule*, it is in their interest to retain records of *complaints* so that these can be used to assist the *Financial Ombudsman Service* should this be necessary. [deleted]~~

...

1.2 Consumer awareness rules

Publishing and providing summary details, and information about the Financial Ombudsman Service

- 1.2.1 R To aid consumer awareness of the protections offered by the provisions in this chapter, *respondents* must:

...

- (2) refer *eligible complainants* to the availability of this information:

- (a) in relation to a *payment service*, in the information on out-of-court complaint and redress procedures required to be provided or made available under regulations ~~36(2)(e)~~ 43(2)(e) (Information required prior to the conclusion of a single payment service contract) or ~~40 48~~ (Prior general information for framework contracts) of the *Payment Services Regulations*; or

...

- (b) otherwise, in writing at, or immediately after, the point of sale; and

- (c) in relation to a *payment service*, at the *branch* where the service is provided;

...

[**Note:** article 15 of the *UCITS Directive*, article 13(2) of the *ADR Directive*, article 14(1) of the *ODR Regulation*, ~~and~~ regulation 19 of the *ADR Regulations*; and article 101 of the *Payment Services Directive*]

...

- 1.2.2A R ...

- 1.2.2B R To the extent that it applies to an *EMD complaint* or a *PSD complaint*, the information specified in *DISP* 1.2.1R must be available in an official language of each such *EEA State* where the *respondent* offers *payment services* or issues *electronic money*, or in another language if agreed between the *respondent* and the *payment service user* or *electronic money*

holder.

[Note: article 101 of the *Payment Services Directive*]

...

1.6 Complaints time limit rules

...

1.6.1A G To the extent that a *complaint* is in part an *EMD complaint* or a *PSD complaint* and the *respondent* has chosen to deal with it in parts, keeping the complainant informed of progress includes informing the complainant that this is the approach that the *respondent* will take.

...

Final or other response within eight weeks

1.6.2 R The Subject to *DISP 1.6.2AR*, the *respondent* must, by the end of eight weeks after its receipt of the *complaint*, send the complainant:

...

EMD and PSD Complaints

1.6.2A R Where a *complaint* is an *EMD complaint* or a *PSD complaint*, the *respondent* must:

- (1) send a *final response* to the complainant by the end of 15 *business days* after the day on which it received the *complaint*; or
- (2) in exceptional circumstances, if a *final response* cannot be given in accordance with paragraph (1) for reasons beyond the control of the *respondent*:
 - (a) send a holding response to the complainant by the end of 15 *business days* after the day on which it received the complaint, clearly indicating the reasons for the delay in answering the *complaint* and specifying the deadline by which it will send the *final response*; and
 - (b) send a *final response* to the complainant by the end of 35 *business days* after the day on which it received the *complaint*.

A *final response* sent under (1) or (2) above must be on paper, or if agreed between the *respondent* and the complainant, on another *durable medium*.

[Note: article 101 of the *Payment Services Directive*]

1.6.2B R Where only part of a *complaint* is an *EMD complaint* or a *PSD complaint*,

that part must be treated in accordance with DISP 1.6.2AR.

- 1.6.2C R As the time limits in DISP 1.6.2AR are shorter than those in DISP 1.6.2R a respondent may choose to treat the whole complaint in accordance with DISP 1.6.2AR (see also DISP 2.8AR).

...

Complainant's written acceptance

- 1.6.4 R ...

- 1.6.4A G DISP 1.6.4R does not affect the requirements imposed by DISP 1.6.2AR. Where a complaint is an EMD complaint or a PSD complaint and DISP 1.6.2AR applies a final response must always be sent unless DISP 1.5.1R applies.

...

- 1.6.6A G The information regarding the *Financial Ombudsman Service*, required to be provided in responses sent under the *complaints time limit rules* (*DISP 1.6.2R*, *DISP 1.6.2AR* and *DISP 1.6.4R*), should be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of those responses.

[**Note:** article 13 of the *ADR Directive*]

...

1.8 Complaints time barring rule

- 1.8.1 R If a *respondent* receives a *complaint* which is outside the time limits for referral to the *Financial Ombudsman Service* (see *DISP 2.8*) it may reject the complaint without considering the merits, but must explain this to the *complainant* in a final response in accordance with *DISP 1.6.2R* or *DISP 1.6.2AR*.

1.9 Complaints record rule

- 1.9.1 R A *firm*, including, in the case of ~~*MiFID business*~~ or *collective portfolio management services* for a *UCITS scheme* or an *EEA UCITS scheme*, a *branch of a UK firm in another EEA state State*, a *payment service provider* or an *e-money issuer*, must keep a record of each *complaint* received and the measures taken for its resolution, and retain that record for:

...

...

After DISP 1.10A (Complaints data publication rules) insert the following new section as DISP 1.10B. The text is not underlined.

1.10B Payment services and electronic money complaints reporting

- 1.10B.1 D (1) Once a year a *credit institution* that provides *payment services* or issues *electronic money* must provide the *FCA* with a complete report concerning *complaints* received about *payment services* and *electronic money*.
- (2) Once a year an *electronic money institution*, an *EEA authorised electronic money institution*, a *payment institution*, a *registered account information service provider* or an *EEA registered account information service provider* must provide the *FCA* with a complete report concerning *complaints* received about *payment services* and *electronic money*.
- (3) The report required by (1) and (2) must be set out in the format in *DISP 1 Annex 1AD*.
- 1.10B.2 G (1) In contrast to the other provisions in *DISP 1* which generally apply only to *complaints* from *eligible complainants*, the *complaints reporting directions* apply in addition to *complaints* from *payment service users* that are not *eligible complainants*.
- (2) *Payment service providers* are reminded that regulation 101 of the *Payment Services Regulations* contains requirements relating to complaints resolution procedures applicable to *complaints* from *payment service users* that are not *eligible complainants*.

Forwarded complaints

- 1.10B.3 D A *respondent* must not include in the report a *complaint* that has been forwarded in its entirety to another *respondent* under the complaints forwarding *rules*.
- 1.10B.4 D Where a *respondent* has forwarded to another *respondent* only part of a *complaint* or where two *respondents* may be jointly responsible for a *complaint*, then the *complaint* should be reported by both *respondents*.

Joint Reports

- 1.10B.5 D *Respondents* that are part of a group may submit a joint report to the *FCA*. The joint report must contain the information required from all *respondents* concerned and clearly indicate the *respondents* on whose behalf the report is submitted. The obligation to provide a report, and the responsibility for the report, remains with each *respondent* in the group.
- 1.10B.6 G Not all the *respondents* in the group need to submit the report jointly. *Respondents* should only consider submitting a joint report if it is logical to

do so, for example, where the *firms* have a common central *complaints* handling team and the same *accounting reference date*.

Information requirements

- 1.10B.7 D *DISP* 1 Annex 1AD requires, for the relevant reporting period and in respect of particular categories of products:
- (1) in Table 1, information about the total number of *complaints* received by the *respondent* and the cause of the *complaint*;
 - (2) in Table 2, information about the number of *complaints* that were:
 - (a) closed or upheld within different periods of time; and
 - (b) the total amount of redress paid by the *respondent* in relation to *complaints* upheld and not upheld in the relevant reporting period; and
 - (3) in Table 3, information providing context about the *complaints* received.
- 1.10B.8 G When completing the return, the *respondent* should take into account the following matters.
- (1) If a *complaint* could fall into more than one category, the *complaint* should be recorded in the category which the *respondent* considers to form the main part of the *complaint*.
 - (2) Under *DISP* 1.10B.7D(2)(a), a *respondent* should report information relating to all *complaints* which are closed and upheld within the relevant reporting period, including those resolved under *DISP* 1.5 (Complaints resolved by close of the third business day). Where a complaint is upheld in part, or where the *respondent* does not have enough information to make a decision yet chooses to make a goodwill payment to the complainant, a *respondent* should treat the *complaint* as upheld for reporting purposes. However, where a *respondent* rejects a *complaint*, yet chooses to make a goodwill payment to the complainant, the complaint should be recorded as 'rejected'.
 - (3) If a *respondent* reports on the amount of redress paid under *DISP* 1.10B.7D(2)(b) redress should be interpreted to include an amount paid, or cost borne, by the *firm*, where a cash value can be readily identified, and should include:
 - (a) amounts paid for distress and inconvenience;
 - (b) a free transfer out to another provider which transfer would normally be paid for;

- (c) goodwill payments and goodwill gestures;
 - (d) interest on delayed settlements;
 - (e) waiver of an excess on an insurance policy; and
 - (f) payments to put the complainant back into the position the complainant should have been in had the act or omission not occurred.
- (4) If a *respondent* reports on the amount of redress paid under *DISP* 1.10B.7D(2)(b) the redress should not include the amount of a non-executed, defective or unauthorised payment transaction but should include any redress paid as a result of losses incurred by the complainant as a result of the non-executed, defective or unauthorised payment transaction.
- 1.10B.9 D The relevant reporting period is the year immediately following:
- (1) where the *respondent* has an *accounting reference date*, its *accounting reference date*; and
 - (2) where the *respondent* does not have an *accounting reference date*, 31 December each year.
- 1.10B.10 D Reports are to be submitted to the *FCA* within 30 *business days* of the end of the relevant reporting periods through, and in the electronic format specified in, the *FCA* complaints reporting system or the appropriate section of the *FCA* website.
- 1.10B.11 D If a *respondent* is unable to submit a report in electronic format because of a systems failure of any kind, the *respondent* must notify the *FCA*, in writing and without delay, of that systems failure.
- 1.10B.12 R
- (1) If a *respondent* does not submit a complete report by the date on which it is due, in accordance with *DISP* 1.10B.10D, the *respondent* must pay an administrative fee of £250.
 - (2) The administrative fee in (1) does not apply if the *respondent* has notified the *FCA* of a systems failure in accordance with *DISP* 1.10B.11R.
- 1.10B.13 D A closed *complaint* is a *complaint* where:
- (1) the *respondent* has sent a *final response*; or
 - (2) the complainant has indicated in writing acceptance of the *respondent's* earlier response under *DISP* 1.6.4R (where applicable).
- 1.10B.14 G
- (1) To improve *consumer* awareness and to help *respondents* compare their performance against their peers, the *FCA* may publish:

- (a) *complaints* data about the *payment services* and *electronic money* sector as a whole; and
 - (b) *respondent* level *complaints* data and information giving context to the *complaints* data for those *respondents* that provide appropriate consent in the electronic money and payment services complaints return form at *DISP* 1 Annex 1AD.
- (2) Although the *complaints data publication rules* do not apply to a report submitted under *DISP* 1.10B.1, the electronic money and payment services complaints return form asks for the *respondent's* consent to the publication by the *FCA* of the data contained in the report.

After *DISP* 1 Annex 1R (Complaints return form) insert the following new Annex as *DISP* 1 Annex 1AD. The text is not underlined.

1 Annex Electronic money and payment services complaints return form
1AD

Electronic Money and Payment Services Complaints Return

GROUP REPORTING

1 Does the data reported in this return cover complaints relating to more than one entity? (NB: You should always answer "No" if your firm is not part of a group)

34 If 'Yes' then list the firm reference numbers (FRNs) of all of the additional entities included in this return. Use the 'add' button to add additional FRNs

NIL RETURN DECLARATION

2 We wish to declare a nil return (if yes, leave all questions on complaints activities, including contextualisation, blank)

RETURN DETAILS REQUIRED

3 Total payment services and electronic money issuance complaints outstanding at reporting period start date

COMPLAINTS DATA PUBLICATION BY FCA AND FIRMS

47 Do you consent to the FCA publishing respondent level complaints data and information giving context to the complaints data?

Part C, DISP 1 Annex 1R

Table 1

Complaints opened

	A
	Total
230 Direct debits	
231 Standing orders	
232 Pre-paid cards and e-money payments	
233 Credit cards	
234 Credit transfer (i.e. Bacs, Chaps, FPS, SEPA)	
235 Money remittance	
236 Debit cards/ cash cards	
237 Payment initiation services	
238 Account information services	
239 ATM withdrawals	
240 Merchant acquiring	
241 Other payment service - Please provide details	
241x Sample1	
Sample2	
242 Issuing or redemption of e-money	
243 Total complaints about payment services and e-money issuance	

Table 2

Complaints closed, upheld and redress paid

	A	B	C	D	E	F	G	H	I	J
	Closed within 3 business days	Closed > 3 business days but within 15 business days	Closed > 15 business days but within 35 business days	Closed > 35 business days but within 8 weeks	Closed > 8 weeks	Total closed	Total upheld	Total redress paid for upheld complaints (single units)	Total redress paid for complaints not upheld (single units)	Total redress paid (single units)
244 Complaints about payment services or electronic money										

Table 3

Contextualisation metrics

	A	B	C
Service	Payment volume in the reporting period (thousands)	How many customers have used the firm's account information services in the reporting period (thousands)?	Value of e-money in the reporting period (thousands)
245 Direct debits			
246 Standing orders			
247 Pre-paid cards and e-money payments			
248 Credit cards			
249 Credit transfer (i.e. Bacs, Chaps, FPS, SEPA)			
250 Money remittance			
251 Complaints about payment services			
Debit cards/ cash cards			
252 Payment initiation services			
253 Account information services			
254 ATM withdrawals			
255 Merchant acquiring			
256 Issuing or redemption of e-money			

After DISP 1 Annex 1AD insert the following new Annex as DISP 1 Annex 1AAG. The text is not underlined.

1 **Notes on completing electronic money and payment services complaints**
Annex **return form**
1AAG

Payment Services Complaints Return

Nil returns

If no complaints concerning payment services or electronic money have been received during the reporting period and no such complaints were outstanding at the beginning of the period, the respondent may submit a NIL RETURN by clicking on the relevant box.

Valuing data to be reported

Respondents should report the actual data requested in this complaints return, using single units, apart from in Table 3 where data should be reported in thousands. If the figure is less than one thousand, respondents should enter the figure as a decimal fraction: e.g. if the payment volume for a service is 200, this should be entered as ‘.2’.

Service groupings

In Table 1 and Table 3 complaints should be allocated to the service groupings based on the service the complaint relates to. If a single complaint relates to more than one category of service, respondents should allocate that complaint to the category that it most closely relates to, rather than reporting such a complaint twice. For example, if a complaint is about ATM withdrawal with a credit card, but the complaint is primarily about the ATM withdrawal, it should be recorded under the ATM withdrawal category.

The service groupings do not correspond directly with those set out in the Payment Services Regulations.

If a respondent has not received any complaints relating to a particular product or service during the reporting period, the relevant box should be left blank.

If complaints relate to the issuing or redemption of e-money and not a payment service executed using e-money, these complaints should be allocated to the ‘issuing or redemption of e-money’ category.

The ‘other payment service’ category should only be used in exceptional circumstances when none of the specific service categories are appropriate. A PSP should provide information for up to a maximum of five payment services.

Tables 1 2 and 3

In Tables 1 2 and 3 respondents should report all complaints relating (either wholly or in part) to payment services and electronic money. Note that this is a wider category than PSD complaints and EMD complaints as defined in the glossary, and would include, for example, complaints about breaches of the Principles for Businesses (for firms) or breaches of contract in connection with the issuance of electronic money or provision of payment services.

The complaints time limit rules (*DISP* 1.6) require EMD complaints and PSD complaints to be closed (by way of a final response) within 15 business days after the day on which the complaint is received (or, in exceptional circumstances, by the end of 35 business days after the day on which the complaint is received).

However PSPs must complete Table 2 with data on all complaints about payment services or electronic money (including those that are not EMD complaints and PSD complaints).

Contextualisation (Table 3)

When providing information giving context to its complaints data, respondents should provide payment volumes for payment services and e-money issuance in the reporting period, as indicated in the form.

The contextualisation metric for pre-paid cards and e-money payments, credit cards, debit cards / cash cards, direct debits, standing orders, credit transfers, money remittance, payment initiation services, merchant acquiring and ATM withdrawal is number of transactions in the reporting period (in thousands).

The contextualisation metric for ATM withdrawals should include withdrawals from the PSP's ATM network in the reporting period for both the PSP's own and other PSPs' customers.

The contextualisation metric for issuing or redemption of e-money is the value of e-money issued or redeemed in the reporting period (in thousands).

The contextual information for account information services should be the number of customers that have used the firm's account information services (AIS) in the reporting period. For authorised PIs this figure should be the same as that provided by payment and e-money institutions in Q80 of the Authorised Payment Institution Capital Adequacy Return and for authorised EMIs, in Q76 of the Authorised Electronic Money Institution Questionnaire.

DISP 1 Annex 1R

This return (Payment Services Complaints Return) only relates to complaints made in relation to payment services or electronic money. All complaints should be reported in *DISP* 1 Annex 1R.

Transparency

To improve consumer awareness and to help payment service providers compare their performance against their peers, the *FCA* may publish aggregated and

anonymised complaints data.

The *FCA* may also publish respondent level complaints data where it has the respondent's consent. If the respondent ticks the 'Yes' box in this report it is consenting to the *FCA* publishing the complaints data.

Amend the following as shown.

1 Annex Application of DISP 1 to type of respondent / complaint
2G

...

Type of respondent/complaint	<i>firm in relation to complaints concerning non-MiFID business (except as specifically provided below)</i>
DISP 1.1A Requirements for MiFID investment firms	Does not apply
DISP 1.2 Consumer awareness rules	Applies for <i>eligible complainants</i>
DISP 1.3 Complaints handling rules	Applies for <i>eligible complainants</i> (DISP 1.3.4G does not apply)
DISP 1.4 - 1.8 Complaints resolution rules etc.	Applies for <i>eligible complainants</i>
DISP 1.9 Complaints record rule	Applies for <i>eligible complainants</i>
DISP 1.10 Complaints reporting rules	Applies for <i>eligible complainants</i>
DISP 1.10A Complaints data publication rules	Applies for <i>eligible complainants</i>
DISP 1.10B <u>Complaints reporting directions</u>	Applies in relation to <u>payment services for payment service users</u> and in relation to <u>electronic money for eligible complainants</u>

Type of respondent/complaint	<i>firm in relation to MiFID complaints concerning MiFID business carried on from an establishment in the UK</i>	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B <u>Complaints reporting directions</u>
		Applies for <i>retail clients</i> and <i>professional clients</i> , and (where relevant) <i>eligible counterparties</i> (see also <i>DISP 1.1A.6R</i>)	Does not apply	Does not apply	<i>DISP 1.7</i> applies as set out in <i>DISP 1.1A</i>	Does not apply (but see <i>DISP 1.1A.37EU</i>)	Applies as set out in <i>DISP 1.1A</i>	Applies as set out in <i>DISP 1.1A</i>	<u>Does not apply</u>
	<i>UK UCITS manage ment company in relation to complaints concerning collective portfolio management services in respect of a UCITS scheme or an EEA UCITS scheme provided under the</i>	Does not apply	Applies for <i>unitholders</i>	Applies for <i>unitholders</i>	Applies for <i>eligible complainants</i>	Applies for <i>unitholders</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	<u>Does not apply</u>

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B <u>Complaints reporting directions</u>
freedom to provide cross border services								
branch of a UK UCITS management company in another EEA State in relation to complaints concerning collective portfolio management services in respect of an EEA UCITS scheme	Does not apply	Applies for unitholders	Applies for unitholders	Does not apply	Applies for unitholders	Does not apply	Does not apply	Does not apply
branch of a UK firm (other than a UK UCITS management company)	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
when providing <i>collective portfolio management</i> services in respect of an <i>EEA UCITS</i> (scheme) in another <i>EEA State</i> in relation to <i>complaints</i> concerning non-MiFID <i>business</i>								
<i>branch</i> of a <i>UK firm</i> in another <i>EEA State</i> in relation to <i>MiFID</i> <i>complaints</i>	Applies for <i>retail clients</i> and <i>professional clients</i> , and (where relevant) <i>eligible counterparties</i> (see also <i>DISP 1.1A.6R</i>)	Does not apply	Does not apply	Does not apply	Does not apply (but see <i>DISP 1.1A.37EU</i>)	Does not apply	Does not apply	Does not apply
<i>incoming branch</i> of an <i>EEA</i>	Does not apply	Applies for <i>eligible complainant</i>	Applies for <i>eligible complainant</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Does not apply	Does not apply

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B <u>Complaints reporting directions</u>
<i>firm (other than an EEA UCITS management company when providing collective portfolio management services in respect of an EEA UCITS scheme) in relation to complaints concerning non-MiFID business</i>	<i>s</i>	<i>s</i>	<i>s</i>					
<i>incoming branch of an EEA firm in relation to MiFID complaints</i>	Applies for <i>retail clients</i> and <i>professional clients</i> , and (where relevant) <i>eligible counterparties</i> (see also DISP 1.1A.6R)	Does not apply	Does not apply	Applies as set out in DISP 1.1A	Does not apply (but see DISP 1.1A.37EU)	Applies as set out in DISP 1.1A	Does not apply	Does not apply

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
<i>incoming branch of an EEA UCITS management company in relation to complaints concerning collective portfolio management services in respect of a UCITS scheme</i>	Does not apply	Applies for <i>unitholders</i>	Applies for <i>unitholders</i>	Applies for <i>eligible complainants</i>	Applies for <i>unitholders</i>	Applies for <i>eligible complainants</i>	Does not apply	Does not apply
<i>incoming EEA UCITS management company in relation to complaints concerning collective portfolio management services in respect</i>	Does not apply	Does not apply	Does not apply	Applies for <i>eligible complainants</i>	Does not apply	Applies for <i>eligible complainants</i>	Does not apply	Does not apply

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B <u>Complaints reporting directions</u>
of a <i>UCITS</i> scheme provided under the freedom to provide <i>cross border services</i>								
<i>incoming EEA firm</i> providing <i>cross border services</i> from outside the <i>UK</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	<u>Does not apply</u>
<i>equivalent business of a third country investment firm</i> in relation to <i>MiFID complaints</i>	Applies as set out in <i>DISP 1.1A</i>	Does not apply	Does not apply	Applies as set out in <i>DISP 1.1A</i>	Does not apply (but see <i>DISP 1.1A.37EU</i>)	Applies as set out in <i>DISP 1.1A</i>	Applies as set out in <i>DISP 1.1A</i>	<u>Does not apply</u>
<i>branch of an overseas</i>	Does not apply	Applies for <i>eligible</i>	Applies for <i>eligible</i>	Applies for <i>eligible</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible</i>	<u>Does not apply</u>

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
<i>firm (in relation to all other complaints)</i>	<i>complainants</i>	<i>complainants</i>	<i>complaints</i>	<i>complainants</i>			<i>complainants</i>	
<i>payment service provider that is not a firm in relation to complaints concerning payment services</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Does not apply Applies for <i>eligible complainants</i>	Does not apply	Does not apply	Applies for <i>payment service users</i>
<i>EEA branch of a UK payment service provider in relation to complaints concerning payment services</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
<i>incoming branch of an EEA</i>	Does not apply	Applies for <i>eligible complainant</i>	Applies for <i>eligible complainant</i>	Applies for <i>eligible complainants</i>	Does not apply Applies for <i>eligible complainants</i>	Does not apply	Does not apply	Applies for <i>payment service users</i>

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B <u>Complaints reporting directions</u>
<i>authorised payment institution in relation to complaints concerning payment services</i>	s	s	s					
<i>incoming EEA authorised payment institution providing cross border payment services from outside the UK</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	<u>Does not apply</u>
<i>electronic money issuer that is not a firm in relation to complaints concerning</i>	Does not apply	Applies for eligible complainants	Applies for eligible complainants	Applies for eligible complainants	Does not apply Applies for eligible complainants	Does not apply	Does not apply	Applies for eligible complainants

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B <u>Complaints reporting directions</u>
issuance of <i>electronic money</i>								
<i>EEA branch of an authorised electronic money institution or an EEA branch of any other UK electronic money issuer in relation to complaints concerning issuance of electronic money</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	<u>Does not apply</u>
<i>incoming branch of an EEA authorised electronic money institution</i>	Does not apply	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Does not apply Applies for <i>eligible complainants</i>	Does not apply	Does not apply	Applies for <i>eligible complainants</i>

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B <u>Complaints reporting directions</u>
in relation to <i>complaints</i> concerning issuance of <i>electronic money</i>								
incoming <i>EEA authorised electronic money institution</i> providing cross border <i>electronic money</i> issuance services from outside the <i>UK</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	<u>Does not apply</u>
<i>VJ participant</i>	Does not apply	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i> (DISP 1.3.4G to DISP 1.3.5G do	Applies for <i>eligible complainants</i> (DISP 1.6.8G does not apply)	Does not apply	Does not apply	Does not apply	<u>Does not apply</u>

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
			not apply)					
<i>complaints relating to auction regulation bidding</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
<i>a full-scope UK AIFM, small authorised UK AIFM or an incoming EEA AIFM, for complaints concerning AIFM management functions carried on for an AIF that is a body corporate (unless it is a collective investment scheme)</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
a <i>depository</i> , for <i>complaints</i> concerning activities carried on for an <i>authorised AIF</i>	Does not apply	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i> (<i>DISP 1.3.4G</i> does not apply)	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	<u>Does not apply</u>
a <i>depository</i> , for <i>complaints</i> concerning activities carried on for an <i>unauthorised AIF</i> that is a <i>charity AIF</i> (other than a <i>body corporate</i> that is not a <i>collective investment scheme</i>)	Does not apply	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i> (<i>DISP 1.3.4G</i> does not apply)	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	<u>Does not apply</u>
a <i>depository</i> ,	Does not apply	Applies for <i>eligible</i>	Applies for <i>eligible</i>	Applies for <i>eligible</i>	Applies for <i>eligible</i>	Applies for <i>eligible</i>	Applies for <i>eligible</i>	<u>Does not apply</u>

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
for <i>complaints</i> concerning activities carried on for an <i>unauthorised AIF</i> that is a <i>UK ELTIF</i> (other than a <i>body corporate</i> that is not a <i>collective investment scheme</i>)		<i>complainants</i>	<i>complainants</i> (DISP 1.3.4G does not apply)	<i>complainants</i>	<i>complainants</i>	<i>complainants</i>	<i>complainants</i>	
a <i>depository</i> , for <i>complaints</i> concerning activities carried on for an <i>unauthorised AIF</i> that is not a <i>charity AIF</i> or a <i>UK ELTIF</i>	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
a <i>depository</i> , for <i>complaints</i> concerning activities carried on for an <i>unauthorised AIF</i> that is a <i>body corporate</i> (other than a <i>collective investment scheme</i>).	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply	Does not apply
an <i>incoming EEA AIFM</i> , for <i>complaints</i> concerning <i>AIFM management functions</i> carried on for an <i>authorised AIF</i> or a <i>UK ELTIF</i> under the	Does not apply	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i> (DISP 1.3.4G does not apply)	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Applies for <i>eligible complainants</i>	Does not apply	Does not apply

Type of respondent/complaint	DISP 1.1A Requirements for MiFID investment firms	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 - 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	DISP 1.10A Complaints data publication rules	DISP 1.10B Complaints reporting directions
freedom to provide cross-border services								
a CBTL firm in relation to complaints concerning CBTL business	Does not apply	Applies for eligible complainants	Applies for eligible complainants	Applies for eligible complainants	Does not apply	Does not apply	Does not apply	Does not apply
a designated credit reference agency in relation to complaints about providing credit information	Does not apply	Applies for eligible complainants	Applies for eligible complainants	Applies for eligible complainants	Does not apply	Does not apply	Does not apply	Does not apply

2 Jurisdiction of the Financial Ombudsman Service

...

2.8 Was the complaint referred to the Financial Ombudsman Service in time?

2.8.1 R The *Ombudsman* can only consider a *complaint* if:

...

(2) in relation to a *complaint* that is not an *EMD complaint* or a *PSD complaint*, eight weeks have elapsed since the *respondent* received the *complaint*; or

(2A) in relation to a *complaint* that is an *EMD complaint* or a *PSD complaint*:

(a) 15 business days have elapsed since the *respondent* received the *complaint* and the complainant has not received a holding response as described in *DISP* 1.6.2A R(2)(a); or

(b) where the complainant has received a holding response, 35 business days have elapsed since the *respondent* received the *complaint*; or

...

(4) the *respondent* consents and:

(a) the *Ombudsman* has informed the complainant that the *respondent* must deal with the *complaint* within eight weeks (or for *EMD complaints* and *PSD complaints* 15 business days or, in exceptional circumstances, 35 business days) and that it may resolve the ~~complaint~~ *complaint* more quickly than the *Ombudsman*; and

...

...

2.8.1A R Where a *respondent* has chosen to treat a *complaint* in its entirety in accordance with *DISP* 1.6.2AR, notwithstanding that parts of it fall outside *DISP* 1.6.2AR, *DISP* 2.8 will apply as if the whole *complaint* were an *EMD complaint* or a *PSD complaint*.

...

3 Complaint handling procedures of the Financial Ombudsman Service

...

3.2 Jurisdiction

...

3.2.2 R Unless the *respondent* has already had eight weeks to consider the *complaint* (or for *EMD complaints* and *PSD complaints* the time specified by *DISP 2.8.1R(2A)*) or issued a *final response* or *summary resolution communication*, the *Ombudsman* will refer the *complaint* to the *respondent* (except where *DISP 2.8.1R(4)* applies).

...

4 Standard terms

...

4.2 Standard terms

...

4.2.3 R The following rules and guidance apply to *VJ participants* as part of the *standard terms*, except where the context requires otherwise:

(1) *DISP 1* (Treating complainants fairly), except:

...

(ba) *DISP 1.10A* (Complaints data publication rules); and

(bb) *DISP 1.10B* (Payment services and electronic money complaints reporting); and

...

...

TP 1 Transitional provisions

TP 1.1 Transitional Provisions provisions table

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
41	<u>DISP 1</u>	R	With respect to a <i>complaint</i> received on or after 13 January 2018 concerning an act or omission that occurred before that date, the definition of <i>PSD</i>	From 13 January 2018	13 January 2018

			<i>complaint</i> in the <i>Glossary</i> is to be read as if the reference to <u>Parts 6 and 7 of the <i>Payment Services Regulations</i> were a reference to Parts 5 and 6 of the <i>Payment Services Regulations 2009</i> (SI 2009/209).</u>		
<u>42</u>	<u>DISP 1.10B.9D</u>	<u>D</u>	<p>The first relevant reporting period is the period commencing on 13 July 2018 and ending:</p> <p>(i) where the <i>respondent</i> has an <i>accounting reference date</i>, the <i>first accounting reference date</i> following 30 November 2018;</p> <p>(ii) where the <i>respondent</i> does not have an <i>accounting reference date</i>, 31 December 2018.</p>	<u>13 January 2018 to 30 November 2019</u>	<u>13 January 2018</u>
<u>43</u>	<u>DISP 1.10B.9D</u>	<u>G</u>	The effect of (42) is that, if a <i>firm</i> has an <i>accounting reference date</i> that falls shortly after 13 July 2018 (i.e. between 13 July 2018 and 30 November 2018), the first <i>electronic money and payment services complaints return form</i> that it is required to submit should cover a period of more than one year, from 13 July 2018 to the <i>accounting reference date</i> in 2019.	<u>13 January 2018 to 30 November 2019</u>	<u>13 January 2018</u>

Annex J

Amendments to the Consumer Credit sourcebook (CONC)

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

2 Conduct of business standards: general

2.7 Distance marketing

...

Exception: contracts for payment services

- 2.7.13 G Where a *distance contract* covers both *payment services* and *non-payment services*, the exception in *CONC 2.7.2R(2)* applies only to the *payment services* aspects of the contract. A *firm* taking advantage of this exception will need to comply with the information requirements in Part ~~5~~ 6 of the *Payment Services Regulations*.

...

2.9 Prohibition of unsolicited credit tokens

...

- 2.9.3 G ~~Section 51 of the CCA was repealed by article 20(15) of the Financial Services and Markets Act 2000 (Regulated Activities)(Amendment)(No 2) Order 2013 (SI 2013/1881). However, section 51 is saved for the purposes of regulation 52 of the *Payment Services Regulations*, the effect being that the section continues to apply in relation to a *regulated credit agreement* in place of regulation 58(1)(b) of the *Payment Services Regulations*. [deleted]~~

Annex K

Amendments to the Enforcement Guide (EG)

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

19 Non-FSMA powers

...

19.20 Payment Services Regulations ~~2009~~ 2017

...

19.20.4 The *FCA* also has the power to prohibit or restrict the carrying out of certain *regulated activities* by *EEA authorised payment institutions* and *EEA registered account information service providers*.

...

19.21 The conduct of investigations under the Payment Services Regulations

...

19.21.2 ...

19.21.3 The *Payment Services Regulations* also apply much of Part 13 of the *Act*. The effect of this is that the *FCA* has the power to deal with an *EEA authorised payment institution* or an *EEA registered account information service provider* ('incoming firm') that is likely to contravene a requirement which is imposed on it by or under the *Payment Services Regulations*. Under the *Payment Services Regulations* the *FCA* will be able to use the power of intervention to:

(1) impose a requirement on an incoming *firm* as it considers appropriate;
and

(2) impose a variation on the permissions of an incoming *firm*.

19.22 Decision making under the Payment Services Regulations

19.22.1 The *RDC* is the *FCA*'s decision maker for some of the decisions under the *Payment Services Regulations* as set out in *DEPP* 2 Annex 1G. This builds a layer of separation into the process to help ensure not only that decisions are fair but that they are seen to be fair. The *RDC* will make its decisions following the procedure set out in *DEPP* 3.2 or, where appropriate, *DEPP* 3.3 and 3.4. *DEPP* 3.4 applies for urgent notices under ~~Regulations 11~~ regulations 12(6), 12(9), and 12(10)(b) (including as applied by ~~Regulation 14~~ regulations 15 and 19).

...

Annex L

Amendments to the Perimeter Guidance manual (PERG)

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

3A Guidance on the scope of the Electronic Money Regulations 2011

...

3A.2 General issues

Q2. Why does it matter whether or not we fall within the scope of the Electronic Money Regulations?

It matters because if you issue *electronic money* in the *United Kingdom* and do not fall within an exclusion or exemption you must be:

an *authorised electronic money institution*; or

a *small electronic money institution*; or

an *EEA authorised electronic money institution*; or

a ~~full~~ *credit institution*; or

the Post Office Limited; or

the Bank of England or a central bank when not acting in its capacity as a monetary authority or other public authority; or

a government department or local authority when acting in its capacity as a public authority; or

a *credit union*, municipal bank or the National Savings Bank.

Otherwise you risk committing a criminal offence under regulation 63.

...

Q7. As an electronic money institution how will the Payment Services Regulations apply to us?

The issuance of *electronic money* is not itself a *payment service* but it is likely to entail the provision of *payment services*.

...

The conduct of business requirements in Parts ~~5 and 6~~ and 7 of the *Payment Services Regulations* apply to ~~all payment service providers, including~~ *electronic money issuers*.

Transitional arrangements may also be relevant; see PERG 3A.7.

...

3A.5 Exclusions

Q26. Are there any exclusions from the definition of electronic money that we should be aware of?

Yes. The *Electronic Money Regulations* have two express exclusions:

the first covers monetary value stored on specific payment instruments that may be used to purchase goods and services only in the issuer's premises or within a limited network of service providers or for a limited range of goods or services only in a limited way (the 'limited network' exclusion) (regulation 3(a)). See *PERG 15 Q40 & Q41* which deal with the same ~~term~~ exclusion for the purposes of the *Payment Services Regulations*; and the second covers monetary value used to make certain payment transactions executed by means of any telecommunication, digital or IT device where the goods or services are delivered to and used through such a device but only where the operator of the device does not act only as an intermediary between the user and the supplier resulting from services provided by a provider of electronic communications networks or services in addition to their provision of electronic communications services, where the payment is charged to the related bill (the 'electronic communications exclusion') (regulation 3(b)). See *PERG 15 Q23* for guidance on what 'acting only as an intermediary' might include See *PERG 15 Q41A* which deals with the same exclusion for the purposes of the *Payment Services Regulations*.

Q27. We offer branded prepaid cards which consumers can use to purchase goods in a particular shopping mall-centre. Are we issuing electronic money?

Yes, it is likely that you will be issuing *electronic money* unless you are able to fall within an exclusion. The most likely exclusion is ~~if the card is only used to purchase goods and services in your premises or within a~~ the limited network exclusion (see Q26) of service providers. In our view you will ~~only~~ not be able to take advantage of this exclusion here if unless:

it is made clear in the relevant terms and conditions of the card that the purchaser of the value is only permitted to use the card to buy from merchants located within that particular shopping mall centre with whom you have direct commercial agreements; and

~~the facility to use the card to purchase goods and services outside this shopping mall centre has been disabled~~ does not exist. A card that can be used at a number of different shopping centres, or where use is restricted only by the terms and conditions that apply to the card and is not functionally restricted to one shopping centre is unlikely to fall within this exclusion.

Q28. For the purposes of the second exclusion referred to at Q26, can you explain when goods or services are "used through" a telecommunication, digital or IT device ("a relevant device")? ~~[deleted]~~

~~It is important to realise that it is the good or service purchased on a relevant device that must be used through that device for the purposes of this exclusion.~~

~~So, for example, where a person purchases travel or cinema tickets using prepaid credit on a mobile phone and the ticket is sent to this phone and then used to gain entry onto a transport system or into a cinema, what is being purchased are rights to travel or to watch a film. The ticket itself is a form of receipt confirming the purchase of such rights. Accordingly, as the travel rights or the visit to the cinema cannot be experienced on a relevant device, such a purchase is likely to fail the "used through" part of the regulation 3(b) exclusion.~~

~~Examples of the sorts of goods and services that could meet the "used through" part of the~~

~~regulation 3(b) exclusion are music, online newspaper or video content, electronic books and mobile phone applications. This is because these products are all capable of being enjoyed through the relevant device they have been delivered to.~~

~~For more guidance on this exclusion see *PERG 15, Q23 and 24.*~~

Insert the following new section after PERG 3A.6 (Territorial scope). The text is not underlined.

3A.7 Transitional arrangements

Q30. We were authorised as an electronic money institution before 13 January 2018 (when the Payment Services Regulations 2017 (PSRs 2017) came into force). Can we continue to provide services under the *Electronic Money Regulations*?

Yes, but only for a limited time. The PSRs 2017 amend the *Electronic Money Regulations* to require *authorised electronic money institutions* and *small electronic money institutions* that wish to continue to provide services under the *Electronic Money Regulations* on or after 13 July 2018 to provide additional information to the *FCA* before 13 April 2018 (section 78A of the *Electronic Money Regulations*). The *FCA* must then determine whether the institution's authorisation or registration should be continued.

Q31. We are an authorised electronic money institution. Can we provide account information services and payment initiation services after 13 January 2018?

In relation to the *payment services* introduced by the PSRs 2017 (account information services and payment initiation services), from 13 January 2018 all *electronic money institutions* authorised before that date will be treated as if the *FCA* had imposed a requirement to refrain from providing those services for an indefinite period. Institutions wishing to provide those services must comply with a number of requirements before they can apply for a variation of this requirement.

More information on these transitional arrangements can be found in Chapter 3 (Authorisation and Registration) of the Payment Services and Electronic Money Approach Document.

Amend the following as shown.

15 Guidance on the scope of the Payment Services Regulations ~~2009~~ 2017

15.1 Introduction

The purpose of this chapter is to help businesses in the UK consider whether they fall within the scope of the Second Payment Services Directive (~~2007/64~~ 2015/2366/EC) (PSD ~~PSD~~2), as given effect to in the Payment Services Regulations ~~2009~~ 2017 (the ~~PSD regulations~~ 'PSRs 2017'). The ~~PSD regulations~~ PSRs 2017 create a separate authorisation and

registration regime which differs from the authorisation requirements under the Financial Services and Markets Act. In particular, it is aimed at helping these businesses consider whether they need to be separately authorised or registered for the purposes of providing payment services in the UK. References to individual regulations are to the PSD regulations PSRs 2017, unless otherwise stated.

Background

~~PSD~~ PSD2 provides the legal framework for the operation of a single market in payment services. This includes ~~the creation of~~ a harmonised authorisation regime, designed to establish a single licence for payment service providers which are neither deposit-takers nor ~~e-money issuers~~ electronic money institutions. ~~Authorised payment institutions can provide services on a cross-border or branch basis, using passport rights acquired under the PSD.~~

The relevant payment services, as transposed in the ~~PSD regulations~~ PSRs 2017, are set out fully in Annex 2 to this chapter and include, amongst other things, services relating to the operation of payment accounts (for example, cash deposits and withdrawals from current accounts and flexible savings accounts), execution of payment transactions, card issuing, merchant acquiring and money remittance ~~and certain mobile phone based payment services~~. The ~~directive~~ Directive focuses on electronic means of payment including direct debit, debit card, credit card, standing order, mobile or fixed phone payments and payments from other digital devices as well as money remittance services; it does not apply to cash-only transactions or paper cheque-based transfers.

PSD2 also creates authorisation and registration regimes for firms who provide holders of online payment accounts with payment initiation services and account information services.

Authorised payment institutions and registered account information service providers can provide services on a cross-border basis, using passport rights acquired under PSD2.

All payment service providers (including credit institutions and electronic money institutions) must comply with the conduct of business requirements of the PSRs 2017.

Scope

In terms of scope, the ~~PSD regulations~~ PSRs 2017 are likely to be of relevance to a range of firms including credit institutions, ~~e-money issuers~~ electronic money institutions, the Post Office Limited, money remitters, certain bill payment service providers, card issuers, merchant acquirers, payment initiators, account aggregators and certain ~~telecommunications~~ electronic communication network operators service providers. They are also likely to be relevant to those agents of the above businesses which provide payment services.

Generally speaking, depending on the nature and size of its activities, a business to which the ~~PSD regulations~~ PSRs 2017 apply (other than a credit institution, ~~e-money issuer or an electronic money institution~~, an EEA authorised payment institution or an EEA authorised electronic money institution and their agents) will need to be:

authorised by the FCA as an authorised payment institution; or

registered as a 'small payment institution'; or

registered as a registered account information services provider; or

registered as an agent of an authorised payment institution, an EEA authorised payment institution ~~or a~~, a small payment institution or a registered account information services provider.

The conditions for authorisation as a payment institution are set out in regulation 6. In addition to the authorisation regime for payment institutions, there is an alternative regime for those which fall within the category of small payment institutions (that is businesses which meet the conditions in regulation 13(14)). Broadly, the category of small payment institutions will only be relevant to firms executing payment transactions with a monthly average of 3 million euros (or an equivalent amount) or less, over a 12 month period and that do not carry on account information services or payment initiation services. Broadly, small payment institutions are not subject to the requirements in Part 3 of the PSD regulations PSRs 2017 (including capital requirements), but they are subject to a registration regime and the conduct of business provisions in Parts 5 ~~and 6 and 7~~. There is a further registration regime for payment service providers providing no payment services other than account information services. The conditions for registration are set out in regulation 18. Registered account information services providers must comply with certain conduct provisions, as set out in the regulations.

The ~~PSD regulations~~ PSRs 2017 also provide for the appointment of agents by authorised payment institutions ~~and~~, small payment institutions and registered account information services providers. These agents are ~~exempt from the authorisation requirements in~~ not required to be authorised under regulation 6 but they are required to be registered on the Financial Services Register by their principal (or each of their principals). When the agent's principal is an EEA authorised payment institution, it needs to be registered on the register of the Home State register of that payment institution. A business can also provide payment services as an agent of a credit institution ~~or e-money issuer~~, in which case there are no registration requirements under the ~~PSD regulations~~ PSRs 2017. Electronic money institutions can provide payment services through agents, in which case the registration requirements of the Electronic Money Regulations 2011 apply (see PERG 3A).

Exemptions and exclusions

As well as small payment institutions, registered account information services providers and agents, the ~~PSD regulations~~ PSRs 2017 make provision for a limited number of exempt bodies, notably credit unions and municipal banks. The regulations do not apply to these bodies although municipal banks are required to notify the FCA if they propose to provide payment services.

More generally, there is a broad range of activities which do not constitute payment services under Schedule 1 Part 2 to the ~~PSD regulations~~ PSRs 2017. Amongst these excluded activities, set out more fully in Annex 3, are:

payment transactions through commercial agents acting on behalf of either the payer or the payee;

~~money exchange business~~ cash-to-cash currency exchange activities (for example, bureaux de change);

payment transactions linked to securities asset servicing (for example, dividend payments, share sales or unit redemptions);

services provided by technical service providers (which does not include account information services or payment initiation services);

payment services based on instruments used within a limited network of service providers or for a very limited range of goods or services ('limited network exclusion'); and

~~payment services provided by telecommunications operators other than as an intermediary~~

between payer and payee transactions for certain goods or services up to certain value limits, resulting from services provided by a provider of electronic communication networks or services ('electronic communications exclusion').

These and other activities are the subject of Q&A in *PERG* 15.5. A firm will be exempt from authorisation and registration requirements under the regulations to the extent that its activities fall within one or more of the exclusions in Schedule 1 Part 2 to the regulations. In each case, it will be for businesses to consider their own circumstances and whether they fall within the relevant exclusions. However, firms making use of the limited network exclusion must notify us when the total value of payment transactions executed through relevant services exceeds 1 million euros in any 12 month period beginning on or after 13 January 2018, and we will assess whether the notified services fall within this exclusion. Providers of electronic communications networks or services providing services falling within the electronic communications exclusion must notify us and provide us with an annual audit opinion which testifies that the transactions comply with the value limits set out in that exclusion as directed. See <https://www.fca.org.uk/firms/electronic-communications-exclusion>.

Other scope issues

As explained in *PERG* 15.2, Q13, the regulations also apply in limited circumstances to non-payment service providers, if they provide a currency conversion service. Likewise, a non-payment services provider which imposes charges or offers reductions for the use of a given payment instrument is required to provide information on any such charges or reductions (see regulations ~~50~~ 58 and ~~113~~ 141).

Transitionals

Subject to the exclusions and exemptions outlined above, a ~~payment institution with an establishment in the UK~~ person (other than an EEA payment services provider and its agents, a credit institution, an electronic money institution and certain other specified bodies such as the Post Office) is caught by the authorisation and registration requirements of the ~~PSD regulations~~ PSRs 2017 when it provides payment services, ~~by way of business as a regular occupation or business activity~~, in or from the UK. That said, there are important transitional provisions which delay the need for businesses authorised or registered under the Payment Services Regulations 2009 to re-apply for authorisation or registration under the PSRs 2017, before and during an initial period after the commencement of regulation on 4 November 2009 13 January 2018. There is also a transitional provision applying to providers of account information services and payment initiation services which were providing those services before 12 January 2016 – see 15.7.

How does this chapter work?

The chapter is made up of Q&As divided into the following sections:

General (*PERG* 15.2)

Payment services (*PERG* 15.3)

Small payment institutions, agents and exempt bodies (*PERG* 15.4)

Negative scope/exclusions (*PERG* 15.5)

Territorial scope (*PERG* 15.6)

Transitional arrangements (*PERG* 15.7)

~~Flowcharts and tables~~ Tables (~~PERG 15 Annex 1~~, ~~PERG 15 Annex 2~~ and ~~PERG 15 Annex 3~~)

Definitions

The ~~PSD regulations~~ PSRs 2017 contain their own definitions which you can find in regulation 2. We refer to some of these in the Q&A including ‘payment transaction’, ‘payment account’, ‘payment instrument’ and ‘money remittance’.

15.2 General

Q1. Why does it matter whether or not we fall within the scope of the ~~PSD regulations~~ PSRs 2017?

Broadly, when you provide payment services, ~~by way of business as a regular occupation or business activity~~, in the UK and these services do not fall within an exclusion or exemption, you must be:

- an authorised payment institution; or
- an EEA authorised payment institution; or
- a small payment institution; or
- a registered account information services provider or an EEA registered account information service provider; or
- a credit institution (either one with a Part 4A permission to accept deposits or an EEA credit institution where it is exercising passport rights under paragraph 4 of Annex 1 to the *CRD*); or
- an ~~electronic money issuer~~ electronic money institution or an EEA authorised electronic money institution; or
- the Post Office Limited, Bank of England, a central bank or government departments and local authorities; or
- an exempt person (that is a credit union, municipal bank and the National Savings Bank); ~~or~~
- ~~an agent of a person listed in (a) to (g) above.~~

Unless you are one of the above (or acting as an agent – see PERG 15.4), subject to transitional provisions you risk committing a criminal offence under regulation ~~410~~ 138.

Q2. Is there anything else we should be reading?

The Q&As complement, and should be read in conjunction with, the ~~Payment Services Regulations 2009~~ PSRs 2017. The FCA provides guidance on its regulatory approach under the PSRs 2017 in its Approach Document.

Q3. How much can we rely on these Q&As?

The answers given in these Q&As represent the FCA’s views but the interpretation of financial services legislation is ultimately a matter for the courts. How the scope of the ~~PSD~~

~~regulations~~ PSRs 2017 affects the regulatory position of any particular person will depend on ~~his~~ the person's individual circumstances. If you have doubts about your position after reading these Q&As, you may wish to seek legal advice. The Q&As do not purport to be exhaustive and are not a substitute for reading the relevant legislation. In addition to FCA guidance, some ~~PSD~~ PSD2 provisions may be the subject of guidance or communications by the European Commission or the European Banking Authority.

Q4. We are a UK firm not authorised under FSMA providing payment services to our clients, as a regular business activity. Are we required to be authorised or registered under the regulations?

Yes, unless the exclusions or exemptions in the regulations apply to you or you are an ~~e-money issuer~~ electronic money institution, an EEA authorised electronic money institution, the Post Office Limited or an agent of a credit institution or ~~e-money issuer~~ electronic money institution. If this is not the case, you need to be:

- authorised by the FCA as an authorised payment institution; or
- registered as a small payment institution; or
- registered as an account information services provider; or
- registered as an agent of an authorised payment institution, EEA authorised payment institution or a small payment institution.

~~You might find helpful the overview, in the form of flowcharts, of the authorisation and registration requirements in the PSD regulations as they apply to payment institutions (that is payment service providers other than credit institutions, e-money issuers and their agents), set out in PERG 15 Annex 1.~~

Q5. As a payment institution rather than a credit institution, are we right in thinking that our maintenance of payment accounts does not amount to accepting deposits?

Yes, articles 9AB and 9L of the *Regulated Activities Order* provide that funds received by payment institutions from payment services users with a view to the provision of payment services shall constitute neither deposits nor *electronic money*.

~~As an authorised~~ a payment institution, any funds payment accounts you hold must only be used in relation to payment transactions (see regulation 2833 of the PSD regulations PSRs 2017). A 'payment transaction' for these purposes is defined in regulation 2 of the ~~PSD regulations PSRs 2017~~ as meaning 'an act, initiated by the payer or payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and payee'. Our view is that this means that a payment institution cannot hold funds for a payment service user unless accompanied by a payment order for onward transfer (whether to be executed immediately or on a future date). Funds cannot be held indefinitely. They should not be held for longer than is necessary for operational and technical reasons.

The fact that a payment account operated by a payment institution can only be used for payment transactions distinguishes it from a deposit. A deposit can nevertheless be a form of payment account ~~and for~~ (for example a bank current account is both a deposit and a payment account). For guidance on what constitutes a deposit for the purposes of the regulated activity of 'accepting deposits' and guidance on the regulated activity itself, see *PERG 2.6.2G to 2.6.4G and PERG 2.7.2G*.

A payment institution is not prohibited from paying interest on a payment account but such interest cannot be paid from funds received from customers. More generally, if a payment institution were to offer savings facilities to its customers in the accounts it provides, in our view it would be holding funds not simply in relation to payment transactions and so would be in breach of regulation ~~28~~ 33.

Q6. We are a credit card company and a payment institution. We are not a bank. Sometimes our customers will have a positive balance on their account because they have accidentally overpaid or because of refunds. Would this put us in breach of the requirement in regulation ~~28~~ to use a payment account 33 that payment accounts held by payment institutions may be used only in relation to payment transactions?

No. In our view, this does not amount to a breach of regulation ~~28~~ 33 and nor does the handling of credit balances in the circumstances constitute the activity of accepting deposits.

Q7. We are a credit institution. Do the ~~PSD regulations~~ PSRs 2017 apply to us?

Yes. If you are a credit institution, you will be subject to the conduct of business requirements in the ~~PSD regulations~~ PSRs 2017 to the extent that you provide payment services. ~~In our view, the~~ The authorisation process applying to UK and non-EEA credit institutions remains that imposed by Part 4A of the ~~Act~~ Act. Authorised credit institutions ~~will do~~ do not though need to apply for a separate ~~Part 4A permission~~ Part 4A permission, in order to provide payment services. In other words, if a UK credit institution has a Part IV permission to carry on the regulated activity of accepting deposits, it will not need to be separately authorised to provide payment services in the UK. However, credit institutions intending to provide account information services or payment initiation services should have regard to the notification requirements in SUP 15.8. ~~We are aware that the Commission has indicated that branches of non-EEA credit institutions are unable to provide payment services in the EEA, in this legal form. Whilst it is for firms to consider their own position, in our view~~ The UK branch of a non-EEA credit institution with a Part 4A permission to accept deposits is also authorised to provide payment services in the UK.

An EEA credit institution wishing to provide payment services through a UK branch must exercise its passport rights under paragraph 4 of the Annex to the *CRD*. Similarly, a UK credit institution which wishes to provide payment services in other Member States may exercise its *CRD* passport rights to do so.

Q8. We are an electronic money institution issuer. Do the ~~PSD regulations~~ PSRs 2017 apply to us?

Yes. If you are an electronic money institution ~~issuer~~, you will be subject to the conduct of business requirements in the ~~PSD regulations~~ PSRs 2017. ~~The authorisation and registration regime applying to UK electronic money issuers is split between that imposed by the Act (see PERG 2.6.4A) and that imposed~~ If you are a credit institution, a credit union or a municipal bank, issuing electronic money is a regulated activity and you will require permission under the Act (see PERG 2.6.4A). The authorisation and registration requirements for any other person intending to issue electronic money are governed by the *Electronic Money Regulations* Electronic Money Regulations (see PERG 3A for guidance on the scope of the *Electronic Money Regulations* Electronic Money Regulations). If you are an authorised or small electronic money institution or an EEA authorised electronic money

institution, the PSRs 2017 introduce a transitional provision into the Electronic Money Regulations which affects your right to continue to provide services in the UK after 12 July 2018 – see PERG 3A.7.

Q9. If we provide payment services to our clients, will we always require authorisation or registration under the regulations?

Not necessarily; you will only be providing payment services, for the purpose of the regulations, when you carry on one or more of the activities in PERG 15 Annex 2:

- as a regular occupation or business activity; and
- these are not excluded or exempt activities.

Simply because you provide payment services as part of your business does not mean that you require authorisation or registration. You have to be providing payment services, themselves, as a regular occupation or business to fall within the scope of the regulations (see definition of ‘payment services’ in regulation 2(1)). In our view this means that the services must be provided as a regular occupation or business activity in their own right and not merely as ancillary to another business activity. Accordingly, we would not generally expect the following to be providing payment services as a regular occupation or business activity:

- solicitors or broker dealers, for example, to be providing payment services for the purpose of the regulations merely through operating their client accounts in connection with their main professional activities;
- letting agents, handling tenants’ deposits or rent payments in connection with the letting of a property by them;
- debt management companies, receiving funds from and making repayments for a customer as part of a debt management plan being administered for that customer;
- individuals initiating payments and dealing with payment account information for another person under a power of attorney they have entered into in a personal capacity, for example for a family member; and
- operators of loan or investment based crowd funding platforms transferring funds between participants as part of that activity.

The fact that a service is provided as part of a package with other services does not, however, necessarily make it ancillary to those services – the question is whether that service is, on the facts, itself carried on as a regular occupation or business activity.

Q10. We are a "financial institution" under the CRD . How does PSD apply to us? [deleted]

~~Financial institutions are only subject to the authorisation and conduct of business requirements of the regulations where they provide payment services by way of business and are unable to rely on any of the statutory exclusions. For those financial institutions which are subject to the regulations, they may be able to benefit from transitional relief from the requirement to be authorised or registered as a payment institution if their parent undertaking is subject to consolidated supervision.~~

~~A "financial institution" for the purposes of the PSD regulations, as for the CRD, is an undertaking other than a credit institution, the principal activity of which is to acquire~~

~~holdings or to carry on one or more of the activities listed in points 2 to 12 of Annex 1 to the CRD (see SUP App 3.9.4G). It may include, for example, an authorised person under the Act which is neither a credit institution nor an e-money issuer.~~

Q11. Is it possible to be both an authorised person under FSMA and the agent of an authorised payment institution ~~or~~, a small payment institution or a registered account information provider?

Yes. There is nothing in the ~~PSD regulations~~ PSRs 2017 or the ~~Act~~ Act (for example section 39) which prevents a person from being both an ~~authorised person~~ authorised person and the agent of an authorised payment institution ~~or~~, a small payment institution or a registered account information provider.

Q11A. Is it possible to be both an authorised person under FSMA and an authorised payment institution, a small payment institution or a registered account information provider?

Yes. There is nothing in the PSRs 2017 or the Act which prevents a person from being both an authorised person and an authorised payment institution, a small payment institution or a registered account information provider. In some cases, for example if you issue credit cards (see further Q20A), it is likely that you will need permissions under the Act and the PSRs 2017 in order to provide your services.

Q11B. Is it possible to be both an authorised payment institution and the agent of an authorised payment institution, a small payment institution or a registered account information provider?

Yes. There is nothing in the PSRs 2017 which prevents a person from being both an authorised payment institution or electronic money institution and the agent of an authorised payment institution, a small payment institution or a registered account information provider. However, businesses will need to make clear to payment service users the capacity in which they are providing services, in accordance with regulation 34(16) and consumer protection legislation.

Q12. We provide electronic foreign exchange services to our customers/clients. Will this be subject to the PSD regulations PSRs 2017?

Not necessarily, as providing foreign exchange services is not itself a payment service. Foreign exchange transactions may exist as part of, or independent from, payment services. You will fall within the scope of the ~~PSD regulations~~ PSRs 2017 if you are providing payment services, by way of business, in the UK. For example, where a customer instructs ~~his~~ their bank to make payment in euros from ~~his~~ the customer's sterling bank account to a payee's bank account, we expect conduct of business requirements in the regulations to apply to the transfer of funds including information requirements relating to the relevant exchange rate.

By contrast, we would not expect the conduct of business provisions (including the right of cancellation) in the Payment Services ~~regulations~~ Regulations to apply to a spot or forward fx transaction itself. That said, the electronic transmission, for example, by a bank on behalf of a customer to an fx services provider is likely to be subject to the PSD, because this is a transfer of funds executed by the bank. Similarly, the onward payment by a bank or fx

services provider, on behalf of a client, to a third party of currency purchased in an fx transaction may amount to a payment service.

If you are a small payment institution or an authorised payment institution under the PSRs 2017, you may provide foreign exchange services that are closely related and ancillary to your payment services. However, that does not allow you to provide foreign exchange derivative services that would otherwise require authorisation under MiFID. You therefore need to consider the availability of MiFID exclusions for your foreign exchange business (see PERG 13 Q31K).

Q.13 We are a business that does not provide payment services. We usually accept **Q13.** payment in sterling for our goods and services but also offer a facility to our customers who prefer to pay us in euros other currencies, to do so on the basis of a sterling/euro currency conversion when making electronic payments via their payment service provider. Do the regulations apply to us?

Generally no. You are not required to be authorised or registered under the regulations. You will though be required to disclose information relating to your currency conversion service, including charges and the exchange rate to be used (for further information including details of criminal sanctions, see regulations ~~49~~ 57 and ~~113~~ 141).

15.3 Payment Services services

Q14. Where do we find a list of payment services?

In Schedule 1 Part 1 to the ~~PSD regulations~~ PSRs 2017. There are ~~seven~~ eight payment services, set out in full in Annex 2 to this chapter (including six activities which were payment services under the PSD regulations and the two new activities of payment initiation services and account information services). References to categories of payment services below adopt the structure of Schedule 1 to the ~~PSD regulations~~ PSRs 2017: for example, paragraph (1)(f) refers to ‘money remittance’.

The payment service referred to in paragraph (1)(g) of Schedule 1 to the PSD regulations does not appear as a separate payment service in the PSRs 2017. Telecommunications, IT system or network operators with a paragraph (1)(g) permission should consider which permission(s) they require under the PSRs 2017, such as executing a payment transaction within (1)(c) or issuing a payment instrument under (1)(e). If the services within your paragraph 1(g) permission are also of the type described in paragraph 1(c), under the transitional provisions in regulation 152 of the PSRs 2017 you will be treated as an authorised payment institution, subject to the requirement to provide us (or your home state competent authority if you are an EEA firm) with evidence, by 13 January 2020, that you hold the required own funds.

Q15. When might we be providing services enabling cash to be placed on a payment account (paragraph 1(a))?

When you are accepting cash electronically or ~~over the~~ over the counter or through ATMs which is placed on a payment account which you operate.

The crediting of interest to a payment account is not a service enabling cash to be placed on

a payment account.

If you are a professional cash in transit business, or a non-professional cash collector in the not-for-profit sector, you may benefit from one of the exclusions in Schedule 1 paragraphs 2(b) and (c) of the PSRs 2017 (see Q33B and Q34A below).

Q16. What is a payment account?

...

Accordingly, in our view, 'payment accounts' can include, for example, current accounts, e-money accounts, flexible savings accounts, credit card accounts, other running-account credit accounts and current account mortgages. On the other hand, in our view fixed term deposit accounts (where there are restrictions on the ability to make withdrawals), child trust fund deposit accounts and certain cash Individual Savings Accounts (ISAs) are not payment accounts.

...

In our view, mortgage or loan accounts do not fall within the scope of the regulations. This is on the basis that the simple act of lending funds or receiving funds by way of repayment of that loan does not amount to provision of a payment service.

The definition of 'payment account' in the PSRs 2017 is different to (and wider than) that in the Payment Accounts Regulations 2015.

If you are a provider of non-payment accounts, you may still be carrying on the payment services in paragraphs 1(c) and (d), for example if you execute payment transactions out of those non-payment accounts. Chapter 8 of the Approach Document provides guidance on how the PSRs 2017 conduct of business requirements apply to you.

...

Q18. When might we be providing execution of payment transactions, including transfers of funds on a payment account with a user's payment service provider or with another payment service provider: (i) direct debits, including one-off direct debits, or (ii) payment transactions through a payment card or a similar device, or (iii) credit transfers, including standing orders (paragraph 1(c))?

When you transfer funds from or to your clients, enabling them to pay or receive payment ~~provide a service to clients enabling them to complete payment~~ by way, for example, of direct debit, payment card (such as a debit card), electronic cheque or credit transfer (such as a standing order). Where the funds are covered by these services ~~are provided using~~ a credit line, though, you will be providing the service in paragraph 1(d).

In our view, the simple act of accepting payment by way of debit card or credit card for supply of your own goods or services does not generally amount to the provision of the service of execution of payment transactions through a payment card. For instance, where a restaurant accepts payment from a customer using ~~his~~ the customer's payment card it is not providing a payment service to the customer, but simply accepting payment for the price of the meal. It is merely a payment service user receiving payment from the customer. The firm providing the merchant acquiring service, enabling the restaurant to process the card transaction and receive payment, is providing a payment service in this instance.

As regards a 'direct debit', regulation 2 defines this as meaning 'a payment service for debiting the payer's payment account where a payment transaction is initiated by the payee on the basis of consent given by the payer to the payee, to the payee's payment service provider or to the payer's own payment service provider'. As well as the likes of utility and other household bills, in our view this definition extends to a case where sender and recipient are the same person, for example where the person holds two bank accounts in two different banks.

Providers of electronic communications networks or services may be providing this service or the service in paragraph 1(d). For example, where a subscriber to a mobile network can buy digital content from a third party via premium SMS services and the payment transactions do not fall within the exemption in PERG 15 Annex 3(1), the service in paragraph (c) may be provided (this may be the case where the payment is made from the subscriber's prepaid account) or (if the provider is giving the subscriber credit to finance the purchase) the service in paragraph (d) may be provided (this may be the case where the payment is charged to the subscriber's monthly bill).

...

Q20. When might we be issuing payment instruments (paragraph 1(e))?

Issuing of payment instruments is defined in regulation 2 as 'a payment service by a payment service provider contracting with a payer to provide a payment instrument to initiate payment orders and to process the payer's payment transactions'.

A payment instrument is defined in regulation 2 and means any (a) personalised device or (b) personalised set of procedures agreed between the payment service user and the payment service provider, in both cases where used by the payment service user in order to initiate a payment order.

Examples of persons issuing payment instruments, for the purposes of Schedule 1 to the regulations, include credit card and debit card issuers and ~~e-money issuers~~ electronic money institutions. In addition to the issue of physical instruments such as cards, arrangements by way of telephone call with password, online instruction or a mobile telephone application by which a payment order can be initiated could also amount to issuing payment instruments, depending on the service being provided (see further the Court of Justice of the European Union decision in T-Mobile Austria GmbH v Verein für Konsumenteninformation, C-616/11).

In our view, it is the person who agrees the set of procedures with the payer and agrees that the payer can use those procedures to initiate an instruction to them requesting that they transfer funds to a payee that is issuing the payment instrument. So, for example, a business that provides a payer with a mobile application that transmits the payer's card details (or a number or series of numbers that will be recognised by the recipient as corresponding to that card, which may sometimes be described as a 'token'), along with a payment order, for processing by another person who is a payment service provider, is not issuing a payment instrument.

We would not generally expect you to be issuing payment instruments (or providing other payment services) if all you do is issue direct debit mandates simply for the purpose of being paid for the goods or services you provide to your customers or clients. ~~Nor if the payment transaction is initiated by paper, would that document be considered to be a payment instrument.~~

Q20A We are applying to become an authorised payment institution. Do we also need to be authorised under FSMA in order to issue credit cards?

Probably yes. While regulation 32(2) of the PSRs 2017 permits authorised payment institutions and small payment institutions to grant credit as an ancillary activity in certain circumstances, this regulation does not exempt you if you otherwise need to be an authorised person under FSMA. If you issue payment instruments and provide a credit line under a regulated credit agreement which covers transactions initiated using those payment instruments, you are likely to need to be an authorised person under FSMA (see PERG 2.7 and CONC generally), with permission to carry on credit-related regulated activity, in addition to being authorised or registered under the PSRs 2017.

This is not necessarily the case, however, if you do not provide credit to individuals or relevant recipients of credit, or if the credit agreements are exempt agreements or an exclusion applies. There is, for example, a specific FSMA exclusion for activities carried on by an EEA authorised payment institution exercising passport rights in the United Kingdom in accordance with article 18(4) of the Payment Services Directive. Those activities are excluded from the regulated activities of entering into a regulated credit agreement as lender and exercising, or having the right to exercise, the lender's rights and duties under a regulated credit agreement (see PERG 2.8.14ZB G and article 60JA of the FSMA Regulated Activities Order).

Q21. When might we be acquiring payment transactions (paragraph 1(e))?

Acquiring of payment transactions is defined in regulation 2 as “a payment services provided with a payment service provider contracting with a payee to accept and process payment transactions which result in a transfer of funds to the payee.”

~~If your business includes~~ This includes traditional ‘merchant acquiring’. ~~This will typically include providing~~ services enabling suppliers of goods, services, accommodation or facilities to be paid for purchases arising from card scheme transactions. However, as set out in Recital 10 of PSD2 it is designed to be technology neutral and capture different business models, in particular:

- those where more than one acquirer is involved (and so you may be acquiring payment transactions even if you are not the ‘acquirer of record’ from the point of view of the card scheme);
- regardless of the payment instrument used to initiate the transaction (for example where the instrument is a mobile telephone application); and
- those where there is no actual transfer of funds from acquirer to payee, because another form of settlement is agreed.

In our view, this definition is likely to capture ‘master merchants’ or ‘payment facilitators’ that contract with payees for the provision of acquiring services and activities carried out by businesses that aggregate carrier billing transactions. However, provision of merely technical services to merchants, such as processing or storage of data and provision of terminals or online gateways, will not itself constitute acquiring.

Q22. When might we be providing money remittance services (paragraph 1(f))?

Money remittance is defined in regulation 2 as: ‘... a service for the transmission of money (or any representation of monetary value), without any payment accounts being created in the name of the payer or payee, where

- funds are received from a payer for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee; or
- funds are received on behalf of, and made available to, the payee.’

The service of money remittance cannot therefore involve the creation of payment accounts. Recital 79 of PSD PSD2 describes money remittance as ‘a simple payment service that is usually based on cash provided by a payer to a payment service provider, which remits the corresponding amount, for example, via a communication network, to a payee or to another payment service provider acting on behalf of the payee’.

This service is likely therefore to be relevant, for example, to money transfer companies and hawala brokers.

Although money remittance is traditionally a cash-based service, the definition is technology neutral and may therefore apply to business models where funds are received and transferred electronically.

Q23. We are a mobile network operator offering our client facilities to transfer funds make payments - how do we tell whether and when the regulations apply to us (paragraph 1(g))?

You will be subject to the regulations if you provide a payment ~~execution service to~~ customers and:

- ~~customer consent to execute payment is provided by means of the mobile device you provide; and~~
- ~~you receive payment for transmission to a supplier of goods and services, acting only as intermediary between the payment service user and supplier~~

service as a regular occupation or business activity in the UK and this service does not fall within an exclusion.

~~By contrast, when you add value to the good or service being purchased from a third party, you will not be acting only as an intermediary and hence will not be subject to the regulations (see PERG 15 Annex 3, paragraph (1)). Adding value may take the form of adding intrinsic value to goods or services supplied by a third party, for instance by providing access (including an SMS centre), search or distribution facilities. Nor will you~~ You will not be providing this a payment service when a customer uses his their mobile device merely as an authentication tool to execute payment from his bank the customer’s payment account held with another provider (for example, simply providing instructions to his their bank via SMS or a payment application), and ~~does not transmit payment is not made~~ via you. ~~Mobile phone top-ups also fall outside the scope of the regulations.~~

If your client can use pre-paid airtime to make purchases, you should also consider whether you are issuing electronic money, see PERG 3A.

Mobile network operators and other electronic communication network operators may be

able to take advantage of the exclusion set out in *PERG 15 Annex 3(1)*, see Q41A.

Q24 ~~Do the same provisions apply to other types of telecommunications providers as they do to mobile network operators? [deleted]~~

~~Yes, paragraph 1(g) and *PERG 15 Annex 3(1)* refer to payment transactions executed by means of any telecommunications, digital or IT device. These could include, for example, desktop and laptop computers, personal digital assistants and interactive television sets. Our guidance for mobile phone operators in relation to these provisions applies, by analogy, to other types of telecommunication provider.~~

Q25. We are a bill payment firm. Do the PSD regulations PSRs 2017 apply to us?

...

Q25A. When might we be providing an account information service?

The service of providing account information is an online service to provide consolidated information on one or more payment accounts held by the payment service user with another payment service provider or with more than one payment service provider. This includes whether information is provided in its original form or after processing; and whether it is provided only to the payment service user or to the payment service user and to another person in accordance with the payment service user's instructions.

Account information service providers include businesses that provide users with an on-line 'dashboard' where they can view information from various payment accounts in a single place, businesses that use payment account data to provide users with personalised comparison services supported by presentation of account information, and businesses that provide information from the user's various payment accounts to both the user and another party (such as a lender or a financial advisor) on a user's instruction.

Whether a service is an account information service depends on whether there has been access to payment accounts. The account information service provider is subject to rights and obligations concerning such access under the PSRs 2017 (see Chapter 17 of the Approach Document). For a service to be an account information service it is also necessary for it to involve the provision of payment account information to the payment service user that has been consolidated in some way (although a service may be an account information service even if the information relates to only one payment account).

More than one business may be involved in obtaining, processing and using payment account information to provide an online service to a customer. However, the business that requires authorisation or registration to provide the account information service is the one that provides consolidated account information to the payment service user (including through an agent) in line with the payment service user's request to that business.

Q25B. When might we be providing a payment initiation service?

The service of payment initiation is defined in regulation 2 as 'an online service to initiate a payment order at the request of the payment service user with respect to a payment account held at another payment service provider'.

This includes businesses that contract with online merchants to enable customers to purchase goods or services through their online banking facilities, instead of using a payment card or

other payment method. However, it is not limited to arrangements where the service provider has a pre-existing relationship with the merchant. Any business offering payment initiation services as a regular occupation or business activity will require this permission unless exempt under Schedule 1 Part 2.

In our view, the provider of a service that transmits a payer's card details, along with a payment order, to the payer's payment service provider, but does not come into possession of personalised security credentials, is not carrying out a payment initiation service.

15.4 Small payment institutions, agents and exempt bodies

Q26. What criteria must we meet to be a 'small payment institution'?

The conditions are set out in regulation ~~13~~ 14 and include the following:

- the average of the preceding 12 months' total amount of payment transactions executed by you, including your agents in the UK, does not exceed 3 million euros (or an equivalent amount) per month;
- your business must not include the provision of account information services or payment initiation services;
- none of the individuals responsible for the management or operation of your business has been convicted of offences relating to money laundering or terrorist financing, the ~~Act~~ Act, the PSRs 2017 or the PSD regulations or financial crimes;
- if you are a partnership, an unincorporated association, or a body corporate, you must satisfy us that any persons having a qualifying holding in your business are fit and proper persons having regard to the need to ensure the sound and prudent conduct of the affairs of a small payment institution;
- you must satisfy us that your directors (if you are a body corporate), any persons responsible for the management of your business, and where relevant the persons responsible for the management of your payment services, are of good repute and possess appropriate knowledge and experience to provide payment services;
- if you are a body corporate you must satisfy us that any close links you have with another person are not likely to prevent our effective supervision of you. If it appears to us that you have any close links that are subject to the laws, regulations or administrative provisions of a territory outside of the EEA ('the foreign provisions') you must satisfy us that neither the foreign provisions, nor any deficiency in their enforcement, would prevent our effective supervision of you;
- your head office, registered office or place of residence, as applicable, is in the UK; and
- you must comply with the registration requirements of the Money Laundering Regulations ~~2007~~ 2017, where they apply to you.

Q27. We satisfy the conditions for registration as a small payment institution - does that mean we have to register as one?

No, there are other options available to you. If you register as a small payment institution, you cannot acquire passport rights under the regulations, so you may wish to become an

authorised payment institution if you wish to take advantage of the passport. You may also choose to become an agent of a payment services provider. ~~An overview of the options available to you is set out in PERG 15 Annex 1, Flowcharts 1 and 2.~~

Q28. We only wish to be an agent of a payment institution. Do we need to apply to the FCA and/or PRA for registration?

No. If your principal is a payment institution, it is its responsibility to ~~apply for registration on your behalf~~ register you as its agent. Assuming your principal is not an EEA firm, you are required to be registered on the Financial Services Register before you provide payment services, ~~subject to any relevant transitional provisions (see PERG 15.7) which may delay or avoid the need for registration.~~ If your principal is an EEA firm, your principal will need to comply with the relevant Home State legislation relating to your appointment. You will not be able to provide payment services in the UK on behalf of an EEA firm unless it has also complied with the relevant requirements for the exercise of its passport rights.

You may act for more than one principal, but each principal must register you as its agent.

Q29. We are an agent of a credit institution for the purpose of providing payment services. Do we need to apply to the FCA and/or PRA for registration?

No. If you are such an agent of a credit institution which is permitted to provide payment services in the UK, you are not required to be registered under the ~~PSD regulations~~ PSRs 2017. A credit institution will be permitted to provide payment services if it has a Part 4A permission to accept deposits, or if it is an EEA credit institution exercising passport rights under paragraph 4 of ~~the Annex I to the Banking Consolidation directive~~ Fourth Capital Requirements Directive.

Q30. We are an agent of an electronic money institution for the purpose of providing payment services. Do we need to apply to the FCA for registration under the ~~PSD regulations~~ PSRs 2017?

As such an agent you will need to be registered by your principal under the *Electronic Money Regulations*, see PERG 3A Q21. ~~However, in our view you do not need to be registered as an agent under the PSD PSD2 regulations unless you are also providing payment services on behalf of another payment institution.~~

Q31. We are a credit union. Are we exempt from the regulations?

Yes. You are exempt from the ~~regulations~~ PSRs 2017 by virtue of regulation 3. Note, however, that as a consequence of this the conduct requirements set out in the FCA's Banking: Conduct of Business sourcebook (BCOBS) will apply to you in circumstances in which they would not apply to other payment service providers.

Q32. We are a municipal bank. Are we exempt from the regulations?

Yes. You are exempt from the ~~regulations~~ PSRs 2017 (together with credit unions and the National Savings Bank), by virtue of regulation 3. Unlike credit unions, you are required to notify us if you wish to provide payment services, although you only need to do this once.

15.5 Negative scope/exclusions

Schedule 1 Part 2 to the regulations PSRs 2017 contains a list of activities which do not constitute payment services. The following questions only deal with a selection of these. You should consult Annex 3 to this chapter for a full list of provisions, if you require more details.

Q33. Our business consists of cash payments directly from or to our customers - do the regulations apply to us?

No. The regulations PSRs 2017 do not apply to payment transactions made in cash, without the intervention of an intermediary (see *PERG 15 Annex 3*, paragraph (a)).

Q33A. We are an e-commerce platform that collects payments from buyers of goods and services and then remits the funds to the merchants who sell goods and services through us – do the regulations apply to us?

Recital 11 of PSD2 makes it clear that some e-commerce platforms are intended to be within the scope of regulation. Whether an e-commerce platform is in or out of scope of the PSRs 2017 will depend on its business model.

An e-commerce platform may not be carrying on payment services at all: for example, if the platform is a re-seller of the goods or services (i.e. is acting as principal in the sale or supply of goods or services having purchased them from a third party), such that it is the intended recipient of the funds paid by the customer and there is no contract between the customer to whom the goods or services are now being sold and the third party from whom the platform purchased the goods or services.

If they are providing payment services, the platform should consider whether they are doing so as a regular occupation or business activity (see Q9).

The platform should also consider whether they fall within the exclusion at *PERG 15 Annex 3*, paragraph (b). The PSRs 2017 do not apply to payment transactions from the payer to the payee through a commercial agent authorised via an agreement to negotiate or conclude the sale or purchase of goods or services on behalf of either the payer or the payee but not both the payer and the payee.

An example of where a platform will be acting for both the payer and the payee would be where the platform allows a payer to transfer funds into an account that it controls or manages, but this does not constitute settlement of the payer's debt to the payee, and then the platform transfers corresponding amounts to the payee, pursuant to an agreement with the payee.

In our view, you have the authority to conclude the sale or purchase of goods or services on behalf of the payer or the payee only if you have the authority to affect the legal relations of your principal, who is the payer or the payee, with third parties and to bind the payer or payee to a purchase or sale of goods or services. This would not be fulfilled simply by providing the technical means by which a payer places or a payee accepts an order.

If an e-commerce platform is providing payment services as a regular occupation or business activity and does not benefit from an exclusion or exemption, it will need to be authorised or registered by us.

Q33B. We are a professional cash collection company. We collect coins and banknotes from our customers and then remit them electronically to our customers' bank accounts – do the regulations apply to us?

No. The PSRs 2017 do not apply to the professional physical transport of banknotes and coins, including their collection, processing and delivery (*PERG 15 Annex 3, paragraph (c)*). In our view, the exclusion applies to the delivery of funds to the customer, whether in physical or electronic form. However, it does not extend to the remitting of funds to third parties on the customer's behalf.

Q34. We are a charity which collects cash donations in the form of coins, banknotes and electronic payments and transmits funds via bank transfer to the causes that we support intended recipients do the regulations apply to us?

No. The ~~regulations~~ PSRs 2017 do not apply to payment transactions consisting of non-professional cash collection and delivery as part of a not-for-profit or charitable activity (see *PERG 15, Annex 3, paragraph (d)*).

Q34A. We are an online fundraising platform which collects donations in the form of electronic payments and transmits funds electronically to the causes and charities that have an agreement with us - do any of the exclusions apply to us?

Persons collecting cash on behalf of a charity and then transferring the cash to the charity electronically do not fall within the exclusion in *PERG 15 Annex 3, paragraph (d)*, unless they themselves are carrying this out both non-professionally and as part of a not-for-profit or charitable activity. For example, a group of volunteers that organises regular fundraising events to collect money for charities would fall within this exclusion. On the other hand, an online fundraising platform that derives an income stream from charging charities a percentage of the money raised for them (whether or not this is for profit) is unlikely to fall within this exclusion.

Nor will an online fundraising platform accepting donations and then transmitting them to the intended recipient be able to take advantage of the exclusion in paragraph (b), as they are not a commercial agent authorised via an agreement to negotiate or conclude the sale or purchase of goods or services on behalf of either the payer or the payee but not both the payer and the payee.

Online fundraising platforms should also consider the guidance in Q33A.

Q35. We provide a 'cashback' service to our customers when they pay for their goods at the checkout - do the regulations apply to us?

No. The ~~regulations~~ PSRs 2017 do not apply to cashback services (see *PERG 15, Annex 3, paragraph (e)*).

Q36. We are a bureau de change providing cash only forex services and our clients do not have accounts with us - are these services outside the scope of the regulations?

Yes. The ~~regulations~~ PSRs 2017 do not apply to ~~money exchange business consisting of cash-to-cash~~ currency exchange operations where the funds are not held on a payment

account (see *PERG 15*, Annex 3, paragraph (f)). If you allow a customer to pay for foreign currency using a payment card, this does not mean that you will be providing a payment service. The regulations will though apply to the payment transaction made using the payment card and the payment service provided to you by the merchant acquirer. In other words, the regulations apply to the merchant acquirer's services but yours remain outside the scope of authorisation or registration.

The ~~regulations~~ PSRs 2017 do not affect your obligations under the Money Laundering Regulations 2007.

Q37. Do the regulations distinguish between (i) payment transactions between payment service providers and (ii) payment services provided to clients?

Yes, broadly the object of the ~~regulations~~ PSRs 2017 is the payment service provided to specific clients and not the dealings among payment service providers to deliver the end payment arising from that service. The PSRs 2017 do not apply to payment transactions carried out between payment service providers, their agents or branches for their own account (see *PERG 15* Annex 3, paragraph (m)). This would include, for example, electronic payment from one payment services provider to another acting as such, in discharge of a debt owed by one to the other.

A payment transaction may involve a chain of payment service providers. Where a bank, for example, provides a cash withdrawal or execution of payment transaction service to its customer which involves the use of a clearing bank, it will still be providing a payment service to its customer.

...

Q38. We are an investment firm providing investment services to our clients - are payment transactions relating to these services caught by the regulations?

Generally, no. Where payment transactions only arise in connection with ~~your~~ the main activity of providing investment services, in our view it is unlikely that you will be providing payment services by way of business. In those limited cases where you are, the ~~regulations~~ PSRs 2017 do not apply to securities assets servicing, including dividends, income or other distributions and redemption or sale (see *PERG 15* Annex 3, paragraph (i)).

Q39. We are a firm simply providing IT support in connection with payment system infrastructures - are these services subject to the regulations?

No. There is an exclusion for technical service providers which simply provide IT support for the provision of payment services (see *PERG 15* Annex 3, paragraph (j)). Other support services excluded from the regulations that may be provided by technical service providers include data processing, storage and authentication. This does not mean that where these services form part of a payment service they are not regulated, but in that case it is the payment service provider that is responsible under the PSRs 2017 for the provision of these services, not the person they have outsourced these technical services to.

Providers of payment initiation services or account information services are not technical service providers.

Q40. Which types of payment card could fall within the so-called ‘limited network’ exclusion (see PERG 15, Annex 3, paragraph (k))?

The ‘limited network’ exclusion forms part of a broader exclusion which applies to services based on specific payment instruments that can be used to acquire goods or services only in a limited way and -

~~in or on the instrument issuer’s premises; or
under a commercial agreement with the issuer, either within a limited network of service providers or for a limited range of goods or services...”~~

(a) allow the holder to acquire goods or services only in the issuer’s premises;

(b) are issued by a professional issuer and allow the holder to acquire goods or services only within a limited network of service providers which have direct commercial agreements with the issuer;

(c) may be used only to acquire a very limited range of goods or services; or

(d) are valid only in a single EEA State, are provided at the request of an undertaking or a public sector entity, and are regulated by a national or regional public authority for specific social or tax purposes to acquire specific goods or services from suppliers which have a commercial agreement with the issuer.

As regards (a), examples of excluded instruments could include:

staff catering cards - reloadable cards for use in the employer’s canteen or restaurant;

tour operator cards - issued for use only within the tour operator’s holiday village or other premises (for example, to pay for meals, drinks and sports activities);

store cards – for example, a ‘closed-loop’ gift card, where the card can only be used at the store’s issuer’s premises or website (so where a store card is co-branded with a third party debit card or credit card issuer and can be used as a debit card or credit card outside the store, it will not benefit from this exclusion).

In order to meet the test in (b), recital 13 of PSD2 states that the instrument must be limited to use at a ‘specific retailer or specific retail chain, where the entities involved are directly linked by a commercial agreement which for example provides for the use of a single payment brand and that payment brand is used at the points of sale and appears, where feasible, on the payment instrument that can be used’. It also states that to help limit risks to consumers, it should not be possible to use the same instrument to make payment transactions to acquire goods and services within more than one limited network.

Recital 14 of PSD2 goes on to state that ‘instruments which can be used for purchases in stores of listed merchants should not be excluded from the scope of this Directive as such instruments are typically designed for a network of service providers which is continuously growing.’

In our view, examples of excluded instruments falling within (b) include: ~~As regards (b), this exclusion has two discrete limbs and so applies either to instruments that can be used only:~~

~~within a limited network of service providers; or~~

~~for a limited range of goods or services.~~

~~Petrol-fuel~~ cards (including pan-European cards) - where these are issued for use at a

specified chain of ~~petrol~~ fuel stations and forecourts at these stations;
membership cards - where a card can only be used to pay for goods or services offered by a specific club or organisation;
store ~~card~~ cards - where the card can be used at a specified chain of stores ~~at their premises or on their website~~ sharing a common brand under a franchise agreement between the store owners and the issuer.

We would not generally expect 'city cards' to fall within this exclusion, to the extent that participation is open to all a city's shops and businesses.

'Mall cards' may fall within this exclusion if, on the facts, the criteria are met. In our view you will not be able to take advantage of this exclusion unless: it is made clear in the relevant terms and conditions of the card that the purchaser of the value is only permitted to use the card to buy from merchants located within that particular shopping centre with whom you have direct commercial agreements; and the card is functionally restricted to one shopping centre. A card that can be used at a number of different shopping centres, or where use is restricted only by the terms and conditions that apply to the card and is not functionally restricted is unlikely to fall within this exclusion.

In relation to (c), recital 13 states that it should only be possible to purchase a 'very limited range of goods or services, such as where the scope of use is effectively limited to a closed number of functionally connected goods or services regardless of the geographical location of the point of sale'.

Examples of instruments falling within (c) could be:

fuel cards - where these can only be used to purchase fuel and a closed number of goods or services that are functionally connected to fuel (such as engine oil and brake fluid), including where the cards can be used at multiple retail chains;

transport cards – where these are used only for purchasing travel tickets (for example, the Oyster card which provides access to different service providers within the London public transport system);

In our view, instruments falling within (d) could include:

pre-paid cards provided by local authorities to benefit recipients for use at a specified chain of grocery stores;

government-issued childcare vouchers.

Instruments for the purpose of this exclusion can include, ~~for example,~~ vouchers, mobile applications, cards and other devices.

Service providers relying on this exclusion are required to notify the FCA where the total value of payment transactions executed through such services exceeds 1 million euros in any 12 month period as directed: see <https://www.fca.org.uk/firms/limited-network-exclusion>.

Q41. ~~Do the regulations specify or define what a "limited network" is for these purposes?~~ [deleted]

~~Neither the PSD nor consequently the PSD regulations provide any definition, conditions or criteria for determining what is a "limited network of service providers". The issue of whether or not a "limited network" is in existence is ultimately a question of judgement that, in our view, should take account of various factors (none of which is likely to be conclusive in itself). These include the number of service providers involved, the scale of the services~~

~~provided, whether membership of the network is open-ended, the number of clients using the network and the nature of the services being offered.~~

~~While a "limited network" could include transport cards, petrol cards, membership cards and store cards, we would not generally expect "city cards" to fall within this exclusion, to the extent that these tend to provide users with access to a broad range of goods and services offered by a city's shops and businesses.~~

Q41A. In what circumstances are payments made via a mobile phone excluded?

The 'electronic communications exclusion' (see PERG 15 Annex 2 paragraph (1)) applies to payment transactions resulting from services provided by a provider of electronic communications networks or services.

For this exclusion to apply the service must be provided in addition to electronic communications services for a subscriber to the network or service and the payment must be charged to the related bill.

Where the provider of the network or service allows the customer to pay for eligible transactions out of a prepaid balance that is also used to purchase the electronic communications services, in our view this will amount to the payment transaction being charged to the related bill.

The exclusion only applies:

- to the purchase of digital content and voice-based services (such as music and other digital downloads and premium rate services), regardless of the device used for the purchase or consumption of the digital content; or
- when performed from or via an electronic device for donations to charity (for example SMS donations) or for the purchase of tickets.

In all cases the value of any single payment transaction must not exceed £40, and the cumulative value of payment transactions for an individual subscriber in a month must not exceed £240.

A electronic communications network or service provider providing services falling within the electronic communications exclusion must notify the FCA and provide it with an annual audit opinion that the transactions to which the services relate comply with the financial limits - as directed. See: <https://www.fca.org.uk/firms/electronic-communications-exclusion>. For the purpose of application of the financial limits, the FCA will expect notification on the basis of individual telephone numbers or SIM cards being treated as separate 'subscribers', rather than account holders.

In practice electronic network operators often do not deal directly with suppliers of digital goods and services, but via carrier billing platforms that act as intermediaries or aggregators. The PSRs 2017 make clear that where a network operator benefits from the exclusion with respect to a particular transaction, the provider of any other payment service resulting from that transaction will also benefit from the exclusion. The service provided by the billing platform to merchants will amount to a payment service (for example merchant acquiring or operation of a payment account) only where it results from transactions that do not fall within this exclusion.

Where a provider of a network or service sells subscribers additional goods or services itself (i.e. where it is acting as principal) this exclusion will not be relevant, as no payment service is being provided by the provider of the network or service even if the payment is charged to

the related bill.

Q42. ~~We are a payment services provider which carries out payment transactions for our own account – are these payment transactions excluded from the scope of the regulations? [deleted]~~

~~Yes. Payment transactions carried out between payment service providers, or their agents or branches, for their own account, are all excluded from the scope of the regulations (see *PERG 15 Annex 3*, paragraph (m)). This would include, for example, electronic payment from one payment services provider to another, in discharge of a debt owed by one to the other.~~

Q43. We are a company which performs a group treasury function, including providing payment services directly to other group companies - are these intra-group payment services excluded from the regulations?

Yes. Intra-group payment transactions and related services are excluded from the ~~regulations~~ *PSRs 2017*, where payment is made direct from one group company to another (see *PERG 15 Annex 3*, paragraph (n)). This includes the case where the group company providing the payment service is, itself, a payment service provider otherwise subject to the regulations. However, it does not include intra-group payment transactions that are made through a payment service provider that does not belong to the group.

In our view, this exclusion is likely to extend to payment initiation services and account information services where these are provided by one group company to another member of the same group as part of a group treasury function.

Q44. We are an independent ATM deployer offering cash dispensing facilities to users on behalf of card issuers. We are not a bank. Are we subject to the regulations?

No, assuming you do not provide other payment services listed in Schedule 1 Part 1 to the ~~regulations~~ *PSRs 2017* and are not party to the framework contract with the customer withdrawing money (see *PERG 15 Annex 3*, paragraph (o)). However, you must still provide the customer with the information referred to in regulation 61 of the *PSRs* on withdrawal charges. If other payment services are provided, all your payment services (including the ATM cash dispensing facilities) will be subject to the regulations, to the extent that other exclusions are inapplicable.

15.6 Territorial scope

Q45. We are a UK payment institution - when will we need to make a passport notification?

...

As to the circumstances in which you may need to exercise these rights, this gives rise to issues of interpretation both under the ~~PSD regulations~~ *PSRs 2017* and the local law of the EEA State in which you wish to do business. Our guidance below relates only to the ~~PSD regulations~~ *PSRs 2017* and may differ from the approach in other EEA States. We cannot give guidance on the local law of other EEA States and you may therefore wish to take

professional advice if you think your business is likely to be affected by these issues (for instance, if you are soliciting clients in other EEA States).

...

The establishment of a physical presence (for example, offices) in another EEA State, for use by you, triggers the need for ~~a branch~~ an establishment notification.

...

Q46. We are a non-EEA payment institution providing payment services to UK customers from a location outside the EEA. Do we require authorisation or registration under the regulations?

No. When considering whether you fall within the scope of the ~~regulations~~ PSRs 2017, our starting point is to consider whether a UK payment services provider would be providing cross-border services in analogous circumstances (for example, when it provides payment services to EEA customers from a location in the UK). Accordingly, we would not generally expect a payment services provider incorporated and located outside the EEA to be within the scope of the regulations, if all it does is to provide internet-based and other services to UK customers from that location. A non-EEA payment institution for these purposes would include firms incorporated in the Isle of Man or Channel Islands, both of which are outside the scope of the Second Payment Services Directive.

15.7 Transitional provisions

Q47. We are a provider of account information and payment initiation services who was providing those services before 12 January 2016. Can we continue to provide those services after the PSRs 2017 come into force?

Yes, initially. Providers of account information services and payment initiation services which were providing those services before 12 January 2016 and which continue to provide such services immediately before 13 January 2018 will be able to continue to do so after that date without registration or authorisation until the EBA's Regulatory Technical Standards on strong customer authentication and common and secure communication apply. However, while provided in reliance on this transitional provision, those services will be treated under the PSRs 2017 as if they were not account information services or payment initiation services. More information can be found in Chapters 3 and 17 of our Approach Document.

PERG 15 Annex 1 is deleted in its entirety. The deleted text, except the title, is not shown.

15 Annex 1 [deleted]

15 Annex ~~Payment Services in Schedule 1 Part 1 to the PSD regulations~~ PSRs 2017
2

(a)	Services enabling cash to be placed on a payment account and all of the operations required for operating a payment account
(b)	Services enabling cash withdrawals from a payment account and all of the operations required for operating a payment account
(c)	The execution of the following types of payment transaction <u>payment transactions, including transfers of funds on a payment account with the user's payment service provider or another payment service provider-</u>
	(i) <u>execution of</u> direct debits, including one-off direct debits;
	(ii) <u>execution of</u> payment transactions through a payment card or a similar device;
	(iii) <u>execution of</u> credit transfers, including standing orders
(d)	The execution of the following types of payment transaction <u>payment transactions</u> where the funds are covered by a credit line for the payment user-
	(i) <u>execution of</u> direct debits, including one-off direct debits;
	(ii) <u>execution of</u> payment transactions executed through a payment card or a similar device;
	(iii) <u>execution of</u> credit transfers, including standing orders
(e)	Issuing payment instruments or acquiring payment transactions
(f)	Money remittance
(g)	The execution of payment transactions where the consent of the payer to execute the payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator acting only as an intermediary between the payment user and the supplier of the goods or services <u>Payment initiation services</u>
(h)	<u>Account information services</u>

15 Annex 3 Schedule 1 Part 2 to the PSD regulations PSRs 2017: Activities which do not constitute payment services

(a)	Payment transactions executed wholly in cash and directly between the payer and the payee, without any intermediary intervention.
(b)	Payment transactions between the payer and the payee through a commercial agent authorised in an agreement to negotiate or conclude the sale or purchase of goods or services on behalf of either the payer or the payee but not both the payer and the payee.
(c)	The professional physical transport of banknotes and coins, including their collection, processing and delivery.
(d)	Payment transactions consisting of non-professional cash collection and delivery as part of a not-for-profit or charitable activity.
(e)	Services where cash is provided by the payee to the payer as part of a payment transaction for the purchase of goods or services following an explicit request by the payer immediately before the execution of the payment transaction.
(f)	Money exchange business consisting of eCash-to-cash currency exchange operations where the funds are not held on a payment account.
(g)	Payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee-
	(i) paper cheques of any kind, including travellers' cheques;
	(ii) bankers' drafts;
	(iii) paper-based vouchers;
	(iv) paper postal orders.
(h)	Payment transactions carried out within a payment or securities settlement system between payment services providers and settlement agents, central counterparties, clearing houses, central banks or other participants in the system.
(i)	Payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in sub-paragraph (h) or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services or by any other entities allowed to have the custody of financial instruments.
(j)	Services provided by technical service providers, which support the provision of payment services, without the provider entering at any time into possession of the funds to be transferred, <u>excluding payment initiation services or account</u>

	<u>information services but including-</u>
(i)	the processing and storage of data;
(ii)	trust and privacy protection services;
(iii)	data and entity authentication;
(iv)	information technology;
(v)	communication network provision; and
(vi)	the provision and maintenance of terminals and devices used for payment services.
(k)	Services based on <u>specific payment</u> instruments that can <u>only</u> be used <u>in a limited way and meet one of the following conditions:</u> to acquire goods or services only-
(i)	<u>allow the holder to acquire goods or services only in or on the issuer's premises; or</u>
(ii)	<u>are issued by a professional issuer and allow the holder to acquire goods or services only under a commercial agreement with the issuer, either within a limited network of service providers which have direct commercial agreements with the issuer; or for a limited range of goods or services;</u>
(iii)	<u>may be used only to acquire a very limited range of goods or services; or</u>
(iv)	<u>are valid only in a single EEA State, are provided at the request of an undertaking or a public sector entity, and are regulated by a national or regional public authority for specific social or tax purposes to acquire specific goods or services from suppliers which have a commercial agreement with the issuer,</u>
and for these purposes the 'issuer' is the person who issues the instrument in question.	
(l)	Payment transactions resulting from services provided by <u>a provider of electronic communications networks or services, including transactions between persons other than that provider and a subscriber, where those services are provided in addition to electronic communications services for a subscriber to the network or service and where the additional service is- executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services.</u>
(i)	<u>for the purchase of digital content and voice-based services, regardless of the device used for the purchase or consumption of the digital content, and</u>

		<u>charged to the related bill; or</u>
	(ii)	<u>performed from or via an electronic device and charged to the related bill for the purchase of tickets or for donations to organisations which are registered or recognised as charities by public authorities, whether in the United Kingdom or elsewhere.</u>
		<u>provided that the value of any single payment transaction does not exceed £40, and the cumulative value of payment transactions for an individual subscriber in a month does not exceed £240.</u>
(m)		Payment transactions carried out between payment service providers, or their agents or branches, for their own account.
(n)		Payment transactions <u>and related services</u> between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group.
(o)		Cash withdrawal services provided through Services by providers to withdraw cash by means of automated teller machines, where acting on behalf of one or more card issuers, which are not party to the framework contract with the customer withdrawing money from a payment account, where no other payment service is conducted by the provider;
	(i)	<u>is acting on behalf of one or more card issuers;</u>
	(ii)	<u>is not party to the framework contract with the customer withdrawing money from a payment account; and</u>
	(iii)	<u>does not conduct any other payment service.</u>