

FEES (PAYMENT SYSTEMS REGULATOR) INSTRUMENT 2016

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the powers in paragraph 9 (Funding) of Schedule 4 (The Payment Systems Regulator) of the Financial Services (Banking Reform) Act 2013 (“FSBRA”);
 - (2) the powers in Regulation 15 of The Payment Card Interchange Fee Regulations 2015 (SI 2015/1911); and
 - (3) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137T (General supplementary powers);
 - (b) section 139A (Power of the FCA to give guidance); and
 - (c) paragraph 23 of schedule 1ZA (Fees).
- B. The rule-making powers listed above are specified for the purpose of paragraph 9 of schedule 4 to FSBRA and section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 15 April 2016.

Amendments to the Handbook

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

Notes

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

Citation

- G. This instrument may be cited as the Fees (Payment Systems Regulator) Instrument 2016.

By order of the Board
17 March 2016

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>2015 Interchange Regulations</i>	(in <i>FEES</i> 9) The Payment Card Interchange Fee Regulations 2015 (SI 2015/1911).
<i>AmEx</i>	the American Express <i>IFR card payment system</i> .
<i>Diners Club</i>	the Diners Club International <i>IFR card payment system</i> .
<i>IFR</i>	Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions.
<i>IFR card payment system</i>	a payment card scheme as defined in the <i>IFR</i> , being a single set of rules, practices, standards and/or implementation guidelines for the execution of card-based payment transactions and which is separated from any infrastructure or payment system that supports its operation, and includes any specific decision-making body, organisation or entity accountable for the functioning of the scheme.
<i>JCB</i>	the JCB International <i>IFR card payment system</i> .
<i>regulated person</i>	(in <i>FEES</i> 9) a <i>person</i> on whom the <i>IFR</i> imposes an obligation, restriction or prohibition, including <i>participants</i> in <i>IFR card payment systems</i> .
<i>UPI</i>	the Union Pay International <i>IFR card payment system</i> .

Amend the following definitions as shown.

<i>Bacs</i>	the Bacs regulated payment system <u>regulated payment system</u> designated by HM Treasury under section 43 of <i>FSBRA</i> .
<i>C&C</i>	the Cheque & Credit regulated payment system <u>regulated payment system</u> designated by HM Treasury under section 43 of <i>FSBRA</i> .
<i>CHAPS</i>	the CHAPS regulated payment system <u>regulated payment system</u> designated by HM Treasury under section 43 of <i>FSBRA</i> .
<i>direct access</i>	(a) access to a <u>regulated payment system</u> to enable a <i>payment service provider</i> to provide services for the purposes of enabling the transfer

of funds using the *regulated payment system*, as a result of arrangements made between that *payment service provider* and the *operator* (and other *participants*, as applicable).

- (b) access to an *IFR card payment system* to enable a *payment service provider* to provide services for the purposes of enabling the transfer of funds under the rules of that *IFR card payment system*.

[**Note:** section 42(6) of *FSBRA*]

direct payment service provider

- (a) any person with *direct access* to a *regulated payment system* who provides services to consumers or businesses who are not *participants* in a *regulated payment system*, for the purposes of enabling the transfer of funds using that *regulated payment system*. For the purposes of *FEES 9*, *direct payment service provider* includes an *acquirer* and a *card issuer* in a *card payment system*, and does not include the Bank of England.

- (b) any person with *direct access* to an *IFR card payment system* who acts as an *acquirer* or *card issuer* for the purposes of enabling the transfer of funds under the rules of that *IFR card payment system*.

FPS

the Faster Payments Scheme ~~regulated payment system~~ *regulated payment system* designated by HM Treasury under section 43 of *FSBRA*.

LINK

the LINK ~~regulated payment system~~ *regulated payment system* designated by HM Treasury under section 43 of *FSBRA*.

MasterCard

the MasterCard ~~regulated payment system~~ *regulated payment system* designated by HM Treasury under section 43 of *FSBRA*, and the MasterCard *IFR card payment system*.

NICC

the Northern Ireland Cheque Clearing ~~regulated payment system~~ *regulated payment system* designated by HM Treasury under section 43 of *FSBRA*.

operator

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- (3) (in *FEES 1* and *FEES 9*), any person with responsibility under a *payment system* for managing or operating it; and any reference to the operation of a *payment system* includes a reference to its management. [**Note:** section 42(3) of *FSBRA*]

participant

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- (c) (in *FEES 9*) in relation to an *IFR card payment system*, any *operator* or *payment system provider* in that *IFR card payment system*.

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payment service provider

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- (4) (in *FEES 9*) any person with access to an *IFR card payment system* who acts as an *acquirer* or *card issuer* for the purposes of enabling

the transfer of funds under the rules of that *IFR card payment system*.

- payment system* ~~(in accordance with section 41 of *FSBRA*),~~ a system which is operated by one or more *persons* in the course of business for the purpose of enabling *persons* to make transfers of funds, and includes a system which is designed to facilitate the transfer of funds using another payment system~~;~~.
- [**Note:** see section 42(2) of *FSBRA*]
- processing entity* any *person* providing payment transaction processing services, in terms of the actions required for the handling of a payment instruction between the *acquirer* and the *card issuer* in a *card payment system* or in an *IFR card payment system*.
- Visa* the Visa Europe ~~regulated payment system~~ *regulated payment system* designated by HM Treasury under section 43 of *FSBRA*, and the Visa Europe *IFR card payment system*.
- working day* ...
- (3) (in *FEES* 9) any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the *United Kingdom*.

Annex B

Amendments to the Fees manual (FEES)

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

9 Payment Systems Regulator funding

9.1 Application and purpose

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Introduction

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9.1.4 G (1) Paragraph 9 of Schedule 4 of *FSBRA* ~~allows~~ and the 2015 *Interchange Regulations* applying *FSBRA* in a modified form allow the *FCA* to make *rules* requiring *participants* in *regulated payment systems* and *regulated persons* to pay the *FCA* specified amounts or amounts calculated in a specified way to:

...

(1A) The specified amount or amounts calculated in a specific way in (1) are *PSR fees* which are levied for the funding of the *PSR*'s functions and activities in relation to:

(a) *regulated payment systems* on *participants* in *regulated payment systems*; and

(b) *the IFR* on *regulated persons*.

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9.2 PSR fees

Obligation to pay PSR fees

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9.2.1-A R If either of the following tests is met by an *acquirer* or *card issuer* in a *card payment system* in any given *fee year*, the *transaction volumes* attributable to that *acquirer* or *card issuer* are not to be included in the *payment system denominator* for that *card payment system* for that *fee year*, and that *acquirer* or *card issuer* is not required to pay any *PSR fee* in respect of the *PSR*'s functions and activities in relation to *regulated payment systems* for that *fee year* where:

- (1) the *PSR fee* for that *acquirer* or *card issuer* calculated as set out in *FEES* 9 Annex 1R would be less than £50 for the current *fee year* if *FEES* 9.2.1AR were not applied; or
- (2) ~~for an acquirer, a payment service provider realises in total less than 100,000 transactions by an acquirer operating in the United Kingdom were realised and transactions by a card issuer operating in the United Kingdom in the relevant time period;~~^{or}
- (3) ~~for a card issuer, less than 100,000 transactions by a card issuer operating in the United Kingdom were realised in the relevant time period.~~ [deleted]

- 9.2.1B R (1) If a payment service provider (A) acquires all or part of the business of another payment service provider which includes transaction volumes (B), whether by merger, acquisition or transfer, during the course of a fee year, the liability for paying the PSR fee in the following fee year in relation to B shall rest with A.
- (2) FEES 9.2.1DR(1) also applies when the business acquired, transferred or merged is not a legal entity but is an unincorporated business, or is in the form of assets and/or contracts.

Time of payment

- 9.2.2 R If the *PSR fee* paid by a *direct payment service provider* for the previous *fee year* for a particular *regulated payment system* was at least £20,000, that *direct payment service provider* must pay to the operator of that particular regulated payment system:
- (1) an amount equal to 50% of the *PSR fee* payable for the previous *fee year*, by 15 ~~April in the current~~ March at the end of the previous fee year; and
 - (2) the balance of the *PSR fee* due by 15 August in the current *fee year*.
- 9.2.2A R The *operator* of each *regulated payment system* must pay the amounts collected (as collection agent for the *FCA*) under *FEES* 9.2.2R to the *FCA* by the following dates:
- (1) ~~30~~ 1 April in the current *fee year*;
 - (2) 1 September in the current *fee year*.
- 9.2.3 R If the *PSR fee* paid by a *direct payment service provider* for a particular *regulated payment system* for the previous *fee year* was less than £20,000, the *direct payment service provider* must pay its *PSR fee* in full to the operator of that regulated payment system:
- (1) by 15 August in the current *fee year*; or
 - (2) if later, within 30 days of the date of the invoice.

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[**Note:** Transitional provisions apply to *FEES* 9.2.2R to *FEES* 9.2.3AR 9.2.2BR inclusive: see *FEES* TP 12.4]

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9.2.4D R ...

- (2) The *operator* of a *regulated payment system* must:
- (a) provide the information in (1) ~~no later than the date it issues to the PSR as soon as possible once *FEES* 9 Annex 1R is updated for a *fee year*; and~~
 - (b) obtain the PSR's agreement to the individual PSR fees on a sufficiently timely basis to be able to issue invoices to direct payment service providers in accordance with *FEES* 9.2.4CR.
- (3) The operator of each regulated payment system must provide to the PSR an updated version of the information set out in *FEES* 9.2.4DR(1) by no later than two working days after the dates set out in *FEES* 9.2.2R and *FEES* 9.2.3R, indicating which direct payment service providers have not paid, or not paid in full, their PSR fees.

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Amend the following as shown.

9 Annex 1R PSR fees for the period 1 April 2015 2016 to 31 March 2016 2017

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

Table A in FEES 9 Annex 1R is deleted in its entirety and the deleted text is not shown. Insert the following new Table A in FEES 9 Annex 1R. The text is not underlined.

Table A

Regulated payment system (column 1)	Payment system allocation for 2016/17 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
<i>Bacs</i>	£1.96 million	The <i>PSR fee</i> is calculated for each individual <i>direct payment service provider</i> proportionally to the relevant <i>transaction volumes</i> processed, issued or acquired on behalf of that <i>direct payment service provider</i> through the <i>regulated payment system</i> in question during the <i>relevant time period</i> .	1 January to 31 December 2015	All transactions processed through the <i>Bacs regulated payment system</i> . Transactions include both the initiation of the transfer of funds, and the receiving of transferred funds.	[To follow]
<i>C&C</i>	£1.90 million		1 July to 31 December 2015	All transactions including 'in clearing' and 'out clearing' transactions for GBP, USD and EUR processed through the <i>C&C regulated payment system</i> .	[To follow]
<i>CHAPS</i>	£1.96 million		1 January to 31 December 2015	All MT 103 and MT202 transactions processed through the <i>CHAPS regulated payment system</i> . Transactions	[To follow]

Regulated payment system (column 1)	Payment system allocation for 2016/17 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
				include both the initiation of the transfer of funds, and the receiving of transferred funds.	
FPS	£1.96 million	The calculation formula is: <i>payment system allocation multiplied by direct payment service provider's relevant transaction volumes divided by payment system denominator.</i>	1 January to 31 December 2015	All transactions processed through the <i>FPS regulated payment system</i> . Transactions include both the initiation of the transfer of funds, and the receiving of transferred funds.	[To follow]
LINK	£1.96 million		1 January to 31 December 2015	All transactions issued and acquired under the <i>LINK regulated payment system</i> , including GBP cash withdrawals, foreign currency disbursements, balance enquiries, PIN management, charity donations, non-cash transactions and mobile payment transactions, but excluding ' <i>on us</i> ' transactions. Both issuing and acquiring transactions are taken into account.	[To follow]
MasterCard	£1.96 million	The <i>PSR fee</i> is calculated for each individual acquirer and card issuer (or the operator of that regulated card payment system acting as such an acquirer or card issuer) proportionally to the relevant transaction volumes under the regulated card payment system in question during the relevant time period.	1 January to 31 December 2015	All transactions by acquirers operating in the United Kingdom and card issuers operating in the United Kingdom under the <i>MasterCard regulated payment system</i> , including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals. All <i>MasterCard</i> -branded transactions are included irrespective of the processing entity (<i>MasterCard</i> itself, a third party processing entity or ' <i>on us</i> ' transactions). Both issuing and acquiring transactions are taken into account.	[To follow] (prior to any adjustment resulting from the application of <i>FEES 9.2.1AR</i>)

Regulated payment system (column 1)	Payment system allocation for 2016/17 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
Visa	£1.96 million	The calculation formula is: <i>payment system allocation</i> multiplied by <i>acquirer or card issuer's</i> (or those of the <i>operator</i> of that <i>regulated card payment system</i> acting as such an <i>acquirer or card issuer</i>) relevant <i>transaction volumes</i> divided by <i>payment system denominator</i> .	1 January to 31 December 2015	All transactions by acquirers operating in the United Kingdom and card issuers operating in the United Kingdom under the Visa regulated payment system, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals. All Visa-branded transactions are included irrespective of the processing entity (Visa itself, a third party processing entity or 'onus' transactions). Both issuing and acquiring transactions are taken into account.	[To follow] (prior to any adjustment resulting from the application of FEES 9.2.1AR
NICC	£60,000	The PSR fee is calculated for each direct payment service provider proportionally to its shareholding in the operator of the NICC regulated payment system during the relevant time period. The calculation formula is: <i>payment system allocation</i> multiplied by <i>direct payment service provider's</i> shareholding in the capital of the Belfast Bankers' Clearing Company Ltd (expressed as a percentage).	31 December 2015	All shareholdings held in Belfast Bankers' Clearing Company Ltd, the operator of the NICC regulated payment system.	Not applicable

Amend the following as shown.

TP 12 Transitional provisions relating to direct payment service providers

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

12.3	<u>FEES 9.2.2R</u>	R	<p>[expired]</p> <p>Replace the current <u>FEES 9.2.2R</u> with the following:</p> <p><u>“If the PSR fee paid by a direct payment service provider, acquirer, or card issuer for the previous fee year for a particular regulated payment system was at least £20,000, that direct payment service provider, acquirer or card issuer must pay:</u></p> <p>(1) <u>an amount equal to 30% of the PSR fee payable for the 2015/16 fee year, by 15 April 2016; and</u></p> <p>(2) <u>the balance of the PSR fee due to 2016/17 by 15 August 2016.”</u> [expired]</p>	<p>From 1 April 2016 until 31 March 2016</p>	<p>27 October 2015</p>
12.4	<p><u>FEES 9.2.2R,</u> <u>FEES 9.2.2AR</u> <u>and FEES</u> <u>9.2.2BR</u></p>	R	<p>Replace <u>FEES 9.2.2R, FEES 9.2.2AR and FEES 9.2.2BR</u> with the following:</p> <p><u>“If the PSR fee paid by a direct payment service provider for the previous fee year for a particular regulated payment system was at least £20,000, that direct payment service provider must pay:</u></p> <p>(1) <u>an amount equal to 50% of the PSR fee payable for the previous fee year, by 15 April in the current fee year; and</u></p>	<p>From 15 April 2016 until 29 February 2017</p>	<p>1 March 2017</p>

