

Payment Systems Regulator

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London  
E20 1JN

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[www.psr.org.uk](http://www.psr.org.uk)

**[Legal entity]**

**[Address]**

**cc company secretary**

**For the attention of: [Name of contact]**

BY EMAIL

18 November 2020

[IFRcompliance@psr.org.uk](mailto:IFRcompliance@psr.org.uk)

Dear [name of contact],

## **Interchange Fee Regulation**

**Notice requiring [Legal entity] ('[company]' or 'you') to provide information under section 81 Financial Services (Banking Reform) Act 2013 ('FSBRA') as applied by Regulation 14 of the Payment Card Interchange Fee Regulations 2015 ('PCIFRs')**

The Payment Systems Regulator Limited ('PSR') is responsible for monitoring compliance with the EU Interchange Fee Regulation ('IFR') in the United Kingdom and taking enforcement action where appropriate.

The enclosed Notice is given by the PSR in the exercise of its powers under section 81(1)(b) FSBRA as applied by Regulation 14 of the PCIFRs ('the Notice'). The Notice requires [Legal entity] to provide information needed in connection with the PSR's functions under the IFR and PCIFRs.

## Responding to the Notice

You should read the attached Notice and explanatory notes carefully and take care to ensure that the information provided is as accurate as possible. A failure to comply with the requirements set out in the Notice may result in imprisonment or a fine. It is a criminal offence for any person to intentionally or recklessly provide false information or information which is misleading in a material particular in response to the Notice. If you are in any doubt as to your legal position you should seek legal advice as soon as possible.

The Notice requires you to supply the information described in Parts 1 & 2 of the Annex of the Notice by 5pm on 06 January 2021. The Notice requires you to supply the information described in Part 3 of the Annex of the Notice by 5pm on 20 January 2021. Please provide the information by email to [IFRcompliance@psr.org.uk](mailto:IFRcompliance@psr.org.uk).

If you would like to discuss any aspect of this request or have any questions, please contact [named PSR contact] on [insert telephone number], or on the email address above.

If, for any reason, you consider you will have difficulty in complying with the Notice, please contact us as soon as possible.

Yours sincerely,

[Named PSR manager]

## Policy Manager



### Payment Systems Regulator

12 Endeavour Square  
Stratford  
London  
E20 1JN

## **Notice of requirements to provide information**

### **Section 81(1)(b) of the Financial Services (Banking Reform) Act 2013**

#### **Interchange Fee Regulation**

**Acting under section 81(1)(b) of the Financial Services (Banking Reform) Act 2013 (FSBRA) as applied by Regulation 14 of the Payment Card Interchange Fee Regulations 2015 (PCIFRs) and in connection with its functions under the Interchange Fee Regulation and the PCIFRs, the Payment Systems Regulator Limited (PSR) hereby gives [Legal entity] Notice that:**

1. [Legal entity] is required to supply the information described in the attached Annex in accordance with this Notice.
2. The required information must be provided in electronic format and, to the fullest extent possible, in searchable Word/Excel/Power Point documents.
3. The required information in Parts 1 & 2 must be provided to the PSR by e-mail to [IFRcompliance@psr.org.uk](mailto:IFRcompliance@psr.org.uk) by 5 p.m. on 06 January 2021.
4. The required information in Part 3 must be provided to the PSR by e-mail to [IFRcompliance@psr.org.uk](mailto:IFRcompliance@psr.org.uk) by 5 p.m. on 20 January 2021.

Signed

Name: [Named PSR manager]

Policy Manager, on behalf of the PSR

Date: 18 November 2020

#### **Penal Notice**

**If you the within-named organisation do not comply with this Notice without reasonable excuse, you may be held to be in contempt of court and imprisoned or fined.**

**It is an offence if, in purported compliance with a section 81 Notice, a person gives information which either they know to be false or misleading in a material particular or they recklessly provide information which is false or misleading in a material particular.**

**If you are in any doubt as to your legal position, you are advised to seek independent legal advice at the earliest opportunity.**

**ANNEX A – INFORMATION TO BE PROVIDED**

The questions in this Notice require [Legal entity] ('[company]' or 'you') to provide information in relation to regulated parties' compliance with Articles 3, 4 and 5 of the IFR. This Notice consists of three parts:

- Part 1 of the Notice requires information on gross interchange fees received by issuers and paid by acquirers on consumer debit card transactions from 1 January 2019 to 31 December 2019.
- Part 2 of the Notice requires information on gross interchange fees received by issuers and paid by acquirers on consumer credit card transactions from 1 January 2019 to 31 December 2019.
- Part 3 of the Notice requires information relating to compliance with Article 5.

The information submitted in response to the questions in this Notice will be used to inform our work to monitor compliance with the interchange fee caps, including Article 5 IFR.

All terms in this Notice have the meaning set out in the IFR unless indicated otherwise. The definitions used in the IFR and referred to in this Notice should be read alongside the "Guidance on the PSR's approach as a competent authority for the EU Interchange Fee Regulation", June 2020.<sup>1</sup>

**Part 1: Information on gross interchange fees paid/received on consumer debit card transactions from 1 January 2019 to 31 December 2019***Definitions*

For the purpose of Part 1 of this Notice, a *relevant debit card transaction* is:

- a card-based payment transaction (as defined in Article 2(7) IFR);
- carried out under the [company] payment card scheme (as defined in Article 2(16) IFR);
- involving a debit card (as defined in Article 2(33) IFR) or a prepaid card (as defined in Article 2(35) IFR);
- issued to a consumer (as defined in Article 2(3) IFR);
- where the currency used to calculate the amount of interchange fees payable is any of: GBP, EUR or USD.

Please exclude transactions to which a charity interchange fee of 0% was applied.

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<sup>1</sup> <https://www.psr.org.uk/IFR-guidance-2020>

### *Instructions*

When providing the value of transactions and interchange fees paid/received in questions 1-4 below, please provide the information broken down by all the different interchange fee rates that applied. For example, if you applied an interchange fee rate to a subset of the *relevant debit card transactions* under the [company] scheme lower than 0.2% and a 0.2% interchange fee rate for other *relevant debit card transactions*, please provide the information requested in questions 1-4 for the different interchange fee rates separately. Please also provide the value of transactions and the value of interchange fees paid/received in the currency used to calculate the amount of interchange fees payable.

Please only provide information on transactions which are processed by [company]. You do not need to provide information on transactions that are not processed by [company], such as on-us transactions.

For all of questions 1-4 below, please exclude transactions relating to refunds, chargebacks, reversals and chargeback reversals from the information provided. In addition, please provide the gross value of the interchange fees received or paid in the currency used to calculate the amount of interchange fees payable. In respect of issuers, please do not include any other payments made to the issuer by the acquirer or by [company], or deduct any payments made from the issuer to the acquirer or to [company]. Similarly, in respect of acquirers, please do not include any other payments made by the acquirer to the issuer or to [company], or deduct any payments received by the acquirer from the issuer or [company].

Questions 1-4 below ask for information on transaction values and interchange fees received/paid broken down by the *relevant issuers* and the *relevant acquirers*. For the purposes of Part 1 of this Notice:

- The *relevant issuers* are:
  - the top five issuers (as defined in Article 2(2) IFR) located in the UK when issuers are ranked in descending order by the combined sterling value of *relevant debit card transactions*:
    - made using debit cards (as defined in Article 2(33) IFR) or prepaid cards (as defined in Article 2(35) IFR) that they issued to consumers (as defined in Article 2(3) IFR),
    - at points of sale (as defined in Article 2(29) IFR) located in the UK,
    - that were acquired by acquirers (as defined in Article 2(1) IFR) located in the EEA,
    - during the period under consideration (1 January 2019 – 31 December 2019);

- plus any other issuer (as defined in Article 2(2) IFR) located in the UK as selected by the PSR and notified to [company] in writing at the time this Notice is issued.
- The *relevant acquirers* are the top five acquirers (as defined in Article 2(1) IFR) located in the UK when acquirers are ranked in descending order by the combined sterling value of *relevant debit card transactions*:
  - that they acquired at points of sale (as defined in Article 2(29) IFR) located in the UK;
  - using debit cards (as defined in Article 2(33) IFR) or prepaid cards (as defined in Article 2(35) IFR) issued to consumers (as defined in Article 2(3) IFR) by issuers (as defined in Article 2(2) IFR) located in the EEA;
  - during the period under consideration (1 January 2019 – 31 December 2019).

For the purposes of determining the top five issuers located in the UK, please consolidate issuers that are part of the same corporate group by summing their *relevant debit card transactions*. You should specify which issuers you have consolidated as part of a corporate group in your response.

There may be changes to corporate structure during the period under consideration. Such changes should be taken into account as follows:

- In the event that a corporate group acquires an issuer, that issuer's *relevant debit card transactions* should be included within the corporate group's *relevant debit card transactions* from the first complete month following the official date the acquisition was completed. For example, if a corporate group acquired an issuer on 2 August 2019, that issuer's *relevant debit card transactions* would be included in the corporate group's *relevant debit card transactions* from 1 September 2019 onwards.
- In the event that an issuer that is not part of a corporate group acquires or merges with another issuer to create a new corporate group, the *relevant debit card transactions* of both issuers should be summed from the first complete month following the official date the acquisition or merger was completed. For example, if an issuer acquired or merged with another issuer to create a new corporate group on 10 September 2019, the *relevant debit card transactions* of both issuers should be summed from 1 October 2019 onwards.
- In the event that an issuer leaves a corporate group, that issuer's *relevant debit card transactions* should not be included in the corporate group's *relevant debit card transactions* from the first complete month following the separation.

For example, if an issuer left a corporate group on 15 October 2019, that issuer's *relevant debit card transactions* should not be included in the corporate group's *relevant debit card transactions* from 1 November 2019 onwards.

Please respond using the enclosed Excel template. Please specify any assumptions you made when collating the data and the reasons you had to rely on those assumptions.

**Question 1**

Please provide the value of all *relevant debit card transactions* from 1 January 2019 until 31 December 2019 for the *relevant issuers* where:

- the issuer, acquirer and the point of sale are all located in the UK (a domestic transaction as defined in Article 2(9) IFR); and
- the issuer and the point of sale are both located in the UK but the acquirer is located in an EEA territory that is not the UK (a cross-border transaction as defined in Article 2(8) IFR).

Please break down this information by month, by transaction type (domestic and cross-border), by issuer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

**Question 2**

Please provide the value of interchange fees received by the *relevant issuers* on *relevant debit card transactions* from 1 January 2019 until 31 December 2019 where:

- the issuer, acquirer and the point of sale are all located in the UK (a domestic transaction as defined in Article 2(9) IFR); and
- the issuer and the point of sale are both located in the UK but the acquirer is located in an EEA territory that is not the UK (a cross-border transaction as defined in Article 2(8) IFR).

Please break down this information by month, by transaction type (domestic and cross-border), by issuer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

**Question 3**

Please provide the value of all *relevant debit card transactions* from 1 January 2019 until 31 December 2019 for the *relevant acquirers* where:

- the issuer, acquirer and the point of sale are all located in the UK (a domestic transaction as defined in Article 2(9) IFR); and
- the acquirer and the point of sale are both located in the UK but the issuer is located in an EEA territory that is not the UK (a cross-border transaction as defined in Article 2(8) IFR).

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

**Question 4**

Please provide the value of interchange fees paid by the *relevant acquirers* on *relevant debit card transactions* from 1 January 2019 until 31 December 2019 where:

- the issuer, acquirer and the point of sale are all located in the UK (a domestic transaction as defined in Article 2(9) IFR); and
- the acquirer and the point of sale are both located in the UK but the issuer is located in an EEA territory that is not the UK (a cross-border transaction as defined in Article 2(8) IFR).

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

**Part 2: Information on gross interchange fees paid/received on consumer credit card transactions from 1 January 2019 to 31 December 2019***Definitions*

For the purpose of Part 2 of this Notice a *relevant credit card transaction* is:

- a card-based payment transaction (as defined in Article 2(7) IFR);
- carried out under the [company] payment card scheme (as defined in Article 2(16) IFR);
- involving a credit card (as defined in Article 2(34) IFR);
- issued to a consumer (as defined in Article 2(3) IFR);



- where the currency used to calculate the amount of interchange fees payable is any of: GBP, EUR or USD.

Please exclude transactions to which a charity interchange fee of 0% was applied.

### *Instructions*

When providing the value of transactions and interchange fees paid/received in questions 5-8 below, please provide the information broken down by all the different interchange rates that applied. For example, if you applied an interchange fee rate to a subset of *relevant credit card transactions* under the [company] scheme which was lower than 0.3% and a 0.3% interchange fee rate for other *relevant credit card transactions*, please provide the information requested in questions 5-8 for the different interchange fee rates separately. Please also provide the value of transactions and the value of interchange fees paid/received in the currency used to calculate the amount of interchange fees payable.

Please only provide information on transactions which are processed by [company]. You do not need to provide information on transactions that are not processed by [company], such as on-us transactions.

For all of questions 5-8 below, please provide the gross value of the interchange fees received or paid in the currency used to calculate the amount of interchange fees payable. In respect of issuers, please do not include any other payments made to the issuer by the acquirer or by [company], or deduct any payments made from the issuer to the acquirer or to [company]. Similarly, in respect of acquirers, please do not include any other payments made by the acquirer to the issuer or [company], or deduct any payments made to the acquirer by the issuer or by [company].

Questions 5-8 below ask for information on transaction values and interchange fees received/paid broken down by the *relevant issuers* and the *relevant acquirers*. For the purposes of Part 2 of this Notice:

- The *relevant issuers* are:
  - the top five issuers (as defined in Article 2(2) IFR) located in the UK when issuers are ranked in descending order by the combined sterling value of *relevant credit card transactions*:
    - made using credit cards (as defined in Article 2(34) IFR) that they issued to consumers (as defined in Article 2(3) IFR),
    - at points of sale (as defined in Article 2(29) IFR) located in the UK,
    - that were acquired by acquirers (as defined in Article 2(1) IFR) located in the EEA,

- during the period under consideration (1 January 2019 – 31 December 2019);
  - plus any other issuer (as defined in Article 2(2) IFR) located in the UK as selected by the PSR and notified to [company] in writing at the time this Notice is issued.
- The *relevant acquirers* are the top five acquirers (as defined in Article 2(1) IFR) located in the UK when acquirers are ranked in descending order by the combined sterling value of *relevant credit card transactions*:
  - that they acquired at points of sale (as defined in Article 2(29) IFR) located in the UK;
  - using credit cards (as defined in Article 2(34) IFR) issued to consumers (as defined in Article 2(3) IFR) by issuers (as defined in Article 2(2) IFR) located in the EEA;
  - during the period under consideration (1 January 2019 – 31 December 2019).

For the purposes of determining the top five issuers located in the UK, please consolidate issuers that are part of the same corporate group by summing their *relevant credit card transactions*. You should specify which issuers you have consolidated as part of a corporate group in your response.

There may be changes to corporate structure during the period under consideration. Please follow the process outlined in Part 1 instructions to deal with this, replacing references to *relevant debit card transactions* with *relevant credit card transactions*.

Please respond using the enclosed Excel template. Please specify any assumptions you made when collating the data and the reasons you had to rely on those assumptions.

**Question 5**

Please provide the value of all *relevant credit card transactions* from 1 January 2019 until 31 December 2019 for the *relevant issuers* where:

- the issuer, acquirer and the point of sale are all located in the UK (a domestic transaction as defined in Article 2(9) IFR); and
- the issuer and the point of sale are both located in the UK but the acquirer is located in an EEA territory that is not the UK (a cross-border transaction as defined in Article 2(8) IFR).

Please break down this information by month, by transaction type (domestic and cross-border), by issuer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

**Question 6**

Please provide the value of interchange fees received by the *relevant issuers* on *relevant credit card transactions* from 1 January 2019 until 31 December 2019 where:

- the issuer, acquirer and the point of sale are all located in the UK (a domestic transaction as defined in Article 2(9) IFR); and
- the issuer and the point of sale are both located in the UK but the acquirer is located in an EEA territory that is not the UK (a cross-border transaction as defined in Article 2(8) IFR).

Please break down this information by month, by transaction type (domestic and cross-border), by issuer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

**Question 7**

Please provide the value of all *relevant credit card transactions* from 1 January 2019 until 31 December 2019 for the *relevant acquirers* where:

- the issuer, acquirer and the point of sale are all located in the UK (a domestic transaction as defined in Article 2(9) IFR); and
- the acquirer and the point of sale are both located in the UK but the issuer is located in an EEA territory that is not the UK (a cross-border transaction as defined in Article 2(8) IFR).

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

**Question 8**

Please provide the value of interchange fees paid by the *relevant acquirers* on *relevant credit card transactions* from 1 January 2019 until 31 December 2019 where:

- the issuer, acquirer and the point of sale are all located in the UK (a domestic transaction as defined in Article 2(9) IFR); and
- the acquirer and the point of sale are both located in the UK but the issuer is located in an EEA territory that is not the UK (a cross-border transaction as defined in Article 2(8) IFR).

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

**Part 3: Information relating to compliance with Article 5***Definitions*

For the purpose of Part 3 of this Notice:

- The *relevant issuers* are:
  - the top five issuers (as defined in Article 2(2) IFR) located in the UK when issuers are ranked in descending order by the combined sterling value of *relevant debit card transactions* (as defined in Part 1 of this Notice) and *relevant credit card transactions* (as defined in Part 2 of this Notice):
    - made using debit cards (as defined in Article 2(33) IFR), prepaid cards (as defined in Article 2(35) IFR) and credit cards (as defined in

- Article 2(34) IFR) that they issued to consumers (as defined in Article 2(3) IFR),
- at points of sale (as defined in Article 2(29) IFR) located in the UK,
  - that were acquired by acquirers (as defined in Article 2(1) IFR) located in the EEA,
  - during the period under consideration (1 January 2019 – 31 December 2019);
- plus any other issuer (as defined in Article 2(2) IFR) located in the UK as selected by the PSR and notified to [company] in writing at the time this Notice is issued.

The term '*object or effect of the interchange fee*' is set out in Article 5 IFR.

### *Instructions*

For the purposes of determining the top five issuers located in the UK, please consolidate issuers that are part of the same corporate group by summing their *relevant debit card transactions* and *relevant credit card transactions*. You should specify which issuers you have consolidated as part of a corporate group in your response.

There may be changes to corporate structure during the period under consideration. Please follow the process outlined in Part 1 instructions to deal with this, replacing references to *relevant debit card transactions* with *relevant debit card transactions and relevant credit card transactions*.

When responding to Question 9, please explain the methodology you use to determine if a payment has the equivalent *object or effect of the interchange fee*.

Please respond to Question 10 using the attached spreadsheet. When stating whether the payments have the equivalent *object or effect of the interchange fee*, please also provide a brief explanation why – with reference to the methodology provided in response to Question 9. When stating the scope of the payment flow (see 3<sup>rd</sup> bullet point of Question 10), if it applies to only a subset of issuers, please indicate which of the *relevant issuers* it applies to. If multiple payments share the same characteristics, i.e. the information for each bullet point is the same, they can be grouped into categories. If this is done, the payments included in a category need to be noted.

When responding to Question 11, please provide a qualitative and quantitative methodology used to assess each of the *relevant issuers* net compensation.

Additionally, please provide data from the most recently completed assessments carried out for each of the *relevant issuers*.

**Question 9**

Please explain your approach to determining if a payment between the scheme and your issuers has the object or effect of an interchange fee.

**Question 10**

Please provide a list of all payment flows between the [company] scheme and the *relevant issuers*. For each payment flow, please provide the following:

- Description of the payment flow
- State whether you consider the payment flow has the equivalent *object or effect of the interchange fee* and the reasons why/why not.
- Scope of the payment flow (i.e. applies to all issuers by default, specific to an individual deal with an issuer)

**Question 11**

Please provide the full detail of the net compensation assessments (both for consumer debit cards and consumer credit cards) completed for each of the *relevant issuers* for the year 2019.

**Question 12**

Please indicate whether issuers have contractual obligations to [report/notify] to [company] any issue with their net compensation assessment. If so, please provide a copy of the relevant rules or provisions.

**Question 13**

Please provide summary details of any reports you have received from issuers regarding their net compensation (whether or not the issuers were contractually obligated to [company] to do so) and the outcome of you assessing these reports.

## **Explanatory Notes**

If you are in any doubt as to your legal position, you are advised to seek independent legal advice at the earliest opportunity

## **Enforcement and offences**

The Financial Services (Banking Reform) Act 2013 ('FSBRA') enables the PSR to formally require the production of documents and the provision of information. Specifically, we have the power to formally require any person to provide information under section 81(1)(b) FSBRA which we require in connection with our functions by giving Notice ('a section 81 Notice').

You should note that there are serious consequences if you fail to comply with a requirement to provide information under a section 81 Notice, or if you provide false or misleading information.

If you are required under a section 81 Notice to produce the documents and/or supply the information specified in this formal request for information, in the form prescribed, you must do so on or before the deadline set out in the section 81 Notice.

## **False or misleading submissions**

It is an offence if, in purported compliance with a section 81 Notice, a person gives information which they know to be false or misleading in a material particular, or recklessly gives information which is false or misleading in a material particular (section 90(6) FSBRA). This may result in imprisonment or a fine or both.

## **Failure to comply with the requirements under a section 81 Notice**

A failure to comply with the requirements set out in a section 81 Notice without reasonable excuse, may be certified in writing to the court and you or your organisation or any director or officer of your organisation may be dealt with as if they were in contempt of court (sub-sections 90(1) and (2) FSBRA). This may result in imprisonment or a fine.

## **Confidentiality and treatment of information**

As part of exercising our functions or as part of facilitating other public authorities in their public functions, we may in future wish to disclose confidential information including views or submissions received in response to a section 81 Notice.

Providers of information should note that we will treat information received in accordance with our statutory framework (sections 91-93 FSBRA<sup>2</sup>). Therefore, we will

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<sup>2</sup> See also Financial Services (Banking Reform) Act 2013 (Disclosure of Confidential Information) Regulations 2014, SI 2014/882

not disclose confidential information that relates to the business or affairs of any person, which we receive for the purposes of our functions under FSBRA, unless:

- there is a 'gateway' permitting this disclosure; or
- we have the consent of the person who provided the information and, if different, the person to whom it relates.

Among the gateways available to the PSR is a 'self-help' gateway whereby the PSR may disclose confidential information to any person to enable or help it to perform its statutory functions. There is also a gateway which allows disclosure to other public authorities to facilitate the carrying out of their public functions.

***Please ensure that you properly mark in your response any information which you consider confidential and which you would not want to be disclosed. Please provide reasons for why you consider such information is confidential and why it should not be disclosed, including how any disclosure would significantly harm your legitimate interests.***

Please note that information already lawfully in the public domain or which is framed in such a way that it is not possible to ascertain from it information relating to a particular person (for example, if it is anonymised) is not confidential under FSBRA.

### **Interchange Fee Regulation**

Sections 81 to 93 of FSBRA apply for the purposes of the Payment Systems Regulator's functions under the Interchange Fee Regulation<sup>3</sup> and the Payment Card Interchange Fee Regulations<sup>4</sup> as if references to Part 5 of FSBRA were references to the Interchange Fee Regulation and the Payment Card Interchange Fee Regulations.

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<sup>3</sup> Regulation (EU) 2015/751 Of The European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions

<sup>4</sup> S.I. 2015/1911