

Our framework for reviewing generally applicable requirements

April 2024

1 PSR statement of policy: review framework

To meet our FSMA 2023 requirement, we have published a review framework for keeping under review generally our generally applicable requirements as our statement of policy.

Background and purpose of the review framework

- 1.1** The Payment Systems Regulator (PSR) has powers under Part 5 of the Financial Services (Banking Reform) Act 2013 (FSBRA) to regulate payment systems designated by the Treasury. These include the power to issue:
- general directions to participants in payment systems
 - generally imposed requirements relating to operators about system rules
- 1.2** Together, FSBRA calls these 'generally applicable requirements'.¹
- 1.3** We use these powers to advance our statutory objectives. We currently have four general directions in place under FSBRA,² and no generally imposed requirements.
- 1.4** Under the Financial Services (Banking Reform) Act 2013 (FSBRA):
- section 104B requires us to 'keep under review generally any generally applicable requirements'
 - section 104C requires us to 'prepare and publish a statement of [our] policy with respect to [our] review of requirements under section 104B'

We already regularly review our general and specific directions, and include expiry dates where appropriate, to ensure that our regulatory requirements remain up to date.

- 1.5** To meet the requirement in section 104C, this document contains our statement of policy on keeping our requirements under review.
- 1.6** Our reviews of our generally applicable requirements may result in a range of outcomes. We may amend or revoke requirements, introduce new or different requirements, or make no changes.

1 See section 104(1) of FSBRA.

2 We have five general directions in all, but we issued General Direction 3 under the Payment Services Regulations 2017, not FSBRA. You can see our general directions on [our website](#).

The review framework

1.7 We structure our review framework as follows:

1. How we will identify the need to review a particular requirement, including indicators and evidence we will use.
2. How stakeholders can request a review.
3. The prioritisation criteria we will apply to determine whether to conduct a review.
4. The review methods we may use.

Identifying the potential need for a review

1.8 We may consider reviewing a generally applicable requirement in any of three situations:³

- at any time through our own initiative
- at any time through representations from stakeholders (parties that are subject to the requirement, or other interested parties)
- if the requirement has not been reviewed in the previous five years

1.9 We will look for indicators that a requirement is no longer up-to-date or relevant. If we do not identify any indicators, we will not review the requirement.

1.10 Indicators may include (but are not limited to):

- changes to legislation or other legal obligations
- changes in our remit or strategy
- material changes in facts or circumstances that suggest the requirement will no longer have the effect we intended, or is no longer appropriate

Such changes may be in market characteristics, economic landscape, compliance costs or commercial arrangements, for example.

1.11 To evaluate whether one or more indicators are present, we may use:

- information we have gained through our work (such as market reviews or thematic reviews)
- our experience of enforcing, monitoring, supervising and applying the requirement, including evidence of non-compliance
- information from, or actions agreed with, other regulators or governmental bodies, including the Financial Conduct Authority, the Bank of England (including the Prudential Regulation Authority)⁴ and the Treasury
- stakeholder information and representations

3 These are the situations relevant under this framework. We would also review a generally applicable requirement if the Treasury requires us to do so under section 104D of FSBRA.

4 Those parties covered by the cross-authority memorandum of understanding (MoU).

In this last category, we include evidence from stakeholders, complaints we have received, information and representations from a relevant panel (including the PSR Panel),⁵ or external academic research and publications.

- 1.12** We will look for evidence that a requirement has become less effective, or that the circumstances justifying it have changed.

How stakeholders can request a review

- 1.13** Stakeholders may make representations asking us to review a generally applicable requirement. You can email us at rules.review@psr.org or write to us at:

Payment Systems Regulator
12 Endeavour Square
Stratford
London E20 1JN

Tell us why you think we should conduct a review, providing evidence to support your view. Relevant panels can also make representations in this way, or through their usual channels of communication with us.

- 1.14** Please head any correspondence as 'Request for review of direction', and clearly mark any confidential information within your submission. We will try to publish information relating to a request for a review. We will not publish any confidential information or any request that the requester has asked not to be published.⁶
- 1.15** We will initially pass representations to the most relevant PSR team to assess whether there is a case for a review. The PSR executive will be made aware of requests for reviews.
- 1.16** We may decide not to review the relevant requirement. In these cases, we will tell those who made the representations our decision, and how to complain if they disagree with it.

5 In addition to the PSR Panel, this refers to the panels mentioned in sections 1RA(8) and 2NA(8) of the Financial Services and Markets Act 2000.

6 We are required to comply with freedom of information obligations, which may result in us disclosing a request. If we are considering doing so, we will endeavour to consult the requester.

Prioritisation: deciding whether to conduct a review

1.17 Once we have identified indicators that a review may be appropriate, we will decide whether to prioritise that review. We will take account of a range of factors, including (but not limited to):

- our statutory objectives (sections 50, 51 and 52 of FSBRA)
- the FSBRA regulatory principles (section 53)
- the PSR Strategy⁷
- our written guidance, including our administrative priority framework⁸
- public law principles
- the impact on those who are subject to the requirement or on others whom it affects

1.18 Our statutory objectives are:

- to promote competition in payment systems
- to promote innovation in payment systems
- to ensure that the interests of those who use, or are likely to use, payment systems are taken into account and promoted

1.19 The FSBRA regulatory principles are, in summary:

- the need to use PSR resources efficiently and economically
- a burden or restrictions should be proportionate
- sustainable growth is desirable in the medium or long term (including consistency with net zero and other environmental targets)⁹
- those who use services should take responsibility for their decisions
- compliance is the responsibility of senior managers of stakeholders that are subject to our requirements
- where appropriate, we should exercise our functions in a way that recognises differences in the nature and objectives of different businesses
- where appropriate, we should publish information relating to persons on whom we have imposed requirements on (or we should oblige them to do so themselves)
- we should exercise our functions as transparently as possible

7 We published the [PSR Strategy](#) in January 2022, setting out the strategic outcomes we want to see and our short- and long-term priorities.

8 Our administrative priority framework is available on [our website](#).

9 FSMA 2023 (Schedule 7, paragraph 3) inserted into FSBRA section 53 the reference to the net zero target and other environmental targets. At the date of publication, the amendment has only been commenced so far as it relates to net zero.

1.20 Our administrative priority framework allows us to use our resources in the most efficient and effective manner to further our statutory objectives, functions and duties.

1.21 Whether we decide to take a review forward will depend on the specific circumstances, including any initial evidence to support it. If we decide to review any requirements, we may publicise this at an appropriate time. We will publicise any outcomes.

Our review methods

1.22 If we decide to conduct a review, we will decide on the appropriate methods and timeframe on a case-by-case basis.

1.23 We may use a wide range of methods for reviewing a generally applicable requirement. The review will focus on assessing the evidential basis for change. It will look at our original rationale for the requirement, analyse how effective it has been, and assess evidence that may indicate what a change will achieve.

1.24 To gather further evidence, we may seek stakeholder views, issue data requests, or obtain information from public or private sources. To analyse the evidence and assess the impact a requirement has had, we may use:

- cost benefit analyses¹⁰
- technical analysis (for example, qualitative or quantitative analysis)
- legal analysis
- any other appropriate methods

1.25 We may decide to carry out the review ourselves, or we may choose an independent third party to carry out the review. If we opt for an independent review, we will set out the terms of the review at the beginning, and we will ultimately decide the outcome of the review.

1.26 Where appropriate, we will publish the criteria for a review, along with other relevant details.

1.27 Following the review, we may revoke or amend the requirement, introduce new or different regulatory requirements, or decided to make no changes.

¹⁰ Subject to our CBAs framework, published separately.

© The Payment Systems Regulator Limited 2024
12 Endeavour Square
London E20 1JN
Telephone: 0300 456 3677
Website: www.psr.org.uk

All rights reserved