

# General Direction 2

## Access (FSBRA) (2020)

March 2020

# General Direction 2 Access (FSBRA) (2020)

## 1 Recitals

### Whereas:

- 1.1 The PSR gave General Direction 2 under the Financial Services (Banking Reform) Act 2013 (FSBRA). It came into force on 30 June 2015.
- 1.2 The PSR has reviewed General Direction 2 and, following consultation, has decided to:
  - replace the access test with a test aligned to the substantive access test in the PSRs 2017
  - remove the application to the operator of CHAPS
- 1.3 The PSR has decided to give a new General Direction 2, replacing the General Direction 2 we gave in 2015.

## 2 Powers exercised and purpose

- 2.1 The PSR gives this general direction in accordance with sections 54(1) and (3) of the FSBRA.
- 2.2 The PSR has had regard in particular to sections 49 to 53 of FSBRA (General duties of the Regulator).

## Direction

### **NOW the PSR gives the following General Direction:**

## 3 Access (FSBRA)

- 3.1 An operator of a regulated payment system which is not subject to Regulation 103 of the PSRs 2017 must have publicly disclosed access requirements which:
  - are proportionate, objective and non-discriminatory
  - do not prevent, restrict or inhibit access or participation more than is necessary to safeguard against specific risks (such as settlement risks, operational risk or business risk), or to protect the financial and operational stability of the payment system

- 3.2** For the purposes of General Direction 2, publicly disclosing the access requirements means, at the least, providing a copy of them in a prominent, easily accessible position on any relevant website that the operator operates or controls.
- 3.3** The operator must inform the PSR, as soon as possible, of any material updates and changes to the operator's access requirements.
- 3.4** Operators must give us a report on their own compliance with the obligations in General Direction 2 each year, covering the 12-month period to 30 September. They must do this by 31 October the same year.
- 3.5** This report must include at least:
- a. the operator's assessment of its compliance with the obligations in General Direction 2 throughout the relevant 12-month period
  - b. details of:
    1. all occasions in the relevant 12-month period where access has been withdrawn or modified for an existing service-user
    2. all occasions in the relevant 12-month period when another party expressed interest in potentially securing direct access or direct technical access to the system
    3. the operator's initial response to the expression of interest, and the outcome at the conclusion of the process
  - c. details of all occasions in the relevant 12-month period when the operator has engaged with, and considered, the views of PSPs and other interested parties on the operation and effectiveness of its access requirements
  - d. details of any anticipated review of its access requirements, or any engagement with service-users and other interested parties, that the operator plans to take over the following 12-month period
  - e. details of any planned future developments that require or justify material updates or changes to the operator's access requirements
  - f. any information that the PSR may, from time to time, require to be included in the report, the PSR having given reasonable notice of at least eight weeks before the report is due

## 4 Application

This General Direction applies to the operators of regulated payment systems, excluding those subject to regulation 103 of the PSRs 2017.

## 5 Revocation of 'day one' General Direction 2

Our original General Direction 2, which we gave in 2015, is revoked.

## 6 Commencement

This General Direction comes into force on 5 April 2020.

## 7 Citation

This General Direction may be cited as General Direction 2: Access (FSBRA) (2020).

## 8 Interpretation

- 8.1 The headings and titles used in this General Direction are for convenience and have no legal effect.
- 8.2 The Interpretation Act 1978 applies to this General Direction as if it were an Act of Parliament, except where words and expressions are expressly defined.
- 8.3 References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.
- 8.4 In this General Direction, the word ‘including’ shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word ‘include’ and its derivatives shall be construed accordingly.
- 8.5 In this General Direction, the following definitions and abbreviations apply:

<b>access requirements</b>	the rules (including criteria), terms or conditions (including fees and charges), policies and procedures governing access to, or participation in, a payment system
<b>direct access</b>	access to a regulated payment system to enable a PSP to provide services for the purposes of enabling the transfer of funds using the payment system, as a result of arrangements made between that PSP and the operator (and other participants, as applicable)
<b>direct technical access</b>	a direct connection by a PSP or another third party with the central infrastructure used by a payment system
<b>operator</b>	as defined in section 42(3) of FSBRA
<b>PSP</b>	payment service provider as defined in section 42(5) of FSBRA

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<b>PSR</b>	the Payment Systems Regulator, the body corporate established under Part 5 of FSBRA references to 'we', 'us' and 'our' mean the PSR
<b>PSRs 2017</b>	Payment Services Regulations 2017 (SI 2017/752), as amended from time to time
<b>regulated payment system</b>	a payment system designated by the Treasury under section 43 of FSBRA, excluding CHAPS
<b>service-user(s)</b>	those who use or are likely to use services provided by regulated payment systems

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**Made on 5 March 2020**

**Chris Hemsley**  
Managing Director  
Payment Systems Regulator

# Explanatory notes

1. Examples of updates and changes as referred to in paragraph 3.5e include, but are not limited to, updates and changes to:
  - a. terms and conditions relating to:
    - fees or charges for direct access
    - technical requirements for participation in the regulated payment systemwhere the change could (positively or negatively) affect direct access or direct technical access for PSPs
  - b. eligibility requirements for PSPs to obtain or continue to have direct access
  - c. any rules, criteria, terms or conditions, policies or procedures governing access to, or participation in, a regulated payment system, that may (positively or negatively) affect indirect access to the system
2. Operators do not need to notify us about routine changes to technical requirements, such as non-significant software updates.

# Status of Directions and explanatory notes

Directions give rise to binding obligations. Breaching a direction is a compliance failure which makes a party liable to regulatory sanction.

Explanatory notes may be used, among other things, to explain provisions and requirements (such as General Directions) and/or to indicate how to approach compliance.

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