

Policy Statement

# PSR regulatory fees

Further decisions on the new  
PSR regulatory fees regime

June 2018

---

In this document, we set out our decisions on a number of matters relating to the regulatory fees for the Payment Systems Regulator (PSR) and conclude our year-long review of the PSR regulatory fees regime.

The fees are used to fund the PSR's functions under:

- the Financial Services (Banking Reform) Act 2013
- the Payment Card Interchange Fee Regulations 2015
- the Payment Services Regulations 2017

If you have any questions, you can email us at [PSRfees@psr.org.uk](mailto:PSRfees@psr.org.uk) or write to us at:

Fees Team  
Payment Systems Regulator  
25 The North Colonnade  
Canary Wharf  
London E14 5HS

You can download this consultation from our website: [www.psr.org.uk/psr-publications/policy-statements/PS-18-12-PSR-regulatory-fees](http://www.psr.org.uk/psr-publications/policy-statements/PS-18-12-PSR-regulatory-fees)

---

# Contents

|          |   |    |
|----------|---|----|
| <b>1</b> | Overview  | 4  |
| <b>2</b> | The PSR regulatory fees regime consultation   | 7  |
| <b>3</b> | Decisions on matters we consulted on in CP18/8<br>and our response to other issues raised | 9  |
| <b>4</b> | Our approach to the PSR regulatory fees regime – a restatement                            | 18 |
|          | <b>Annex 1</b>  |    |
|          | Fees instrument making amendments to the existing<br>PSR fees rules                       | 24 |
|          | <b>Annex 2</b>  |    |
|          | Compatibility statement   | 33 |
|          | <b>Annex 3</b>  |    |
|          | List of respondents to CP18/8   | 38 |
|          | <b>Annex 4</b>  |    |
|          | Glossary  | 39 |

# 1 Overview

## Introduction

- 1.1** This policy statement concludes the review of the regulatory fees regime for the Payment Systems Regulator (PSR), which we started in August 2017.
- 1.2** When this document refers to ‘we’ or ‘us’, this means the Financial Conduct Authority (FCA) and the PSR jointly, although the fees rules in the FCA Handbook are made by the FCA.
- 1.3** We began this review of the PSR regulatory fees regime because:
- a. since the first year of the PSR’s operations in 2015, we have been using the same fees allocation and collection methodology, adapting it to accommodate new statutory functions
  - b. following several calls in previous years by stakeholders for a review, we indicated in 2017 that we would assess our current methodology for allocating and collecting PSR fees
  - c. a number of significant changes in the payment systems landscape are on the horizon or have recently taken place; we wanted to consider whether our approach was still fit for purpose
- 1.4** Therefore, in summer 2017, we began a year-long review of our regulatory fees regime to identify a process and methodology that is simple, sustainable and proportionate.
- 1.5** We have published three consultation papers, each building on the decisions outlined in the previous one. The proposals in the review had to be consulted on and implemented in stages in order to align with the fees collection timetable and a number of significant changes. You can find more about each of these documents in Chapter 2, Table 1.
- 1.6** In this document, we publish our decisions on the proposed finishing touches to our review of the PSR regulatory fees regime, which we consulted on in CP18/8<sup>1</sup>, specifically:
- a. **our approach to publishing the annual figures for PSR fees in the future**, including the corresponding amendments to the fees rules that we have implemented to reflect that approach
  - b. **the definition of relevant transactions for the Cheque and Credit (C&C) system** in the fees rules taking into account the Image Clearing System (ICS)
  - c. **alignment with the FCA on the collection of PSR fees on account**, including the corresponding amendments to the fees rules
  - d. **alignment with the FCA on the PSR’s approach to any future underspend**, which will also affect our treatment of the 2017/18 underspend

1 CP18/8, *PSR regulatory fees* (March 2018): [www.psr.org.uk/psr-publications/consultations/CP-18-8-PSR-fees](http://www.psr.org.uk/psr-publications/consultations/CP-18-8-PSR-fees)

- 1.7** We also restate the decisions already made in our year-long consultation on the PSR's regulatory fees allocation and collection method that we will use in 2018/19 and in future years.
- 1.8** Following this year-long review of PSR regulatory fees, we now have a fees allocation and collection method that will be sustainable and more predictable for fee payers.
- 1.9** Our intention is that we should not consult again in the future unless we propose any material change to our fees allocation and collection methodology.

## Background to PSR's powers and funding

- 1.10** Every year, the PSR receives regulatory fees (PSR fees) from fee payers. We levy these fees to fund the PSR's operations to perform its functions under relevant legislation. These include functions under and as a result of:
- the Financial Services (Banking Reform) Act 2013 (FSBRA)
  - the Payment Card Interchange Fee Regulations 2015 (PCIFRs)
  - the Payment Services Regulations 2017 (PSRs 2017)
- 1.11** In our consultation paper CP17/30 (August 2017)<sup>2</sup>, we set out in greater detail the PSR's powers under FSBRA, the PCIFRs and PSRs 2017. We also set out the FCA's fee-raising powers in relation to PSR fees. More details of this can be found in Chapter 1 of that document (paragraphs 1.12 to 1.29).
- 1.12** We consulted on the PSR's approach to fees in relation to its PSRs 2017 functions. More details of the decisions can be found in Chapter 5 of CP17/44 (paragraphs 5.7 to 5.10).

## Structure of this publication

- 1.13** This document is structured as follows:
- **Chapter 1** is this overview.
  - **Chapter 2** describes the year-long fees regime review and the documents we have published.
  - **Chapter 3** sets out our decisions on the matters we consulted on in CP18/8, and our response to the other comments made by the respondents.
  - **Chapter 4** sets out our already confirmed approach to fees allocation and collection, and the future annual timetable for data and fees collection.
- 1.14** Alongside this Policy Statement, we are publishing a stand-alone document containing the PSR fees figures for 2018/19.<sup>3</sup> We will publish the updated figures every year in a similar format around the summer time.

<sup>2</sup> [www.psr.org.uk/psr-publications/consultations/CP-17-30-PSR-fees-2018-19](http://www.psr.org.uk/psr-publications/consultations/CP-17-30-PSR-fees-2018-19)

<sup>3</sup> *PSR regulatory fees: 2018/19 fees figures* (June 2018): [www.psr.org.uk/psr-publications/policy-statements/PS-2018-19-fees-figures](http://www.psr.org.uk/psr-publications/policy-statements/PS-2018-19-fees-figures)

## Who should be interested in this policy statement?

- 1.15** This policy statement will be of interest to:
- participants in regulated payment systems under FSBRA
  - regulated persons under the PCIFRs
  - regulated persons under the PSRs 2017
- 1.16** This document contains no material directly relevant to retail financial services consumers or consumer groups (although financial services consumers may contribute to regulatory fees indirectly).

## How does this policy statement affect you?

- 1.17** This policy statement concludes our year-long review of the PSR regulatory fees regime. From 2018/19, we will be implementing the new fees allocation and collection method.
- 1.18** The following provides a summary of what fee payers and operators will be expected to do (for more details, please see Chapter 4).
- 1.19** If you are a fee payer – that is, a payment service provider (PSP) who falls under paragraph 1.15 (or a payment system operator acting as such):
- a. you will be required to pay PSR fees that are determined by the allocation method set out in this document and in the FCA Handbook rules in FEES 9 Annex 1R
  - b. you will also be required to pay an amount of your PSR fees as a pre-payment each year (that is, on account) if you meet the requirement set out in FEES 9.2.2R; the way that is calculated is specified in FEES 9.2.2R(1)
  - c. you may want to verify your firm's contact information and transaction data with the operators of the relevant payment systems before they submit the data to us by 1 March each year
  - d. you will need to refer to the fees figures document that we will publish annually
- 1.20** If you are a payment system operator who falls under one of the groups in paragraph 1.15:
- a. you will be required to provide us with the relevant transaction data and the contact details of the relevant PSPs by 1 March every year; this requirement is set out in FEES 9.2.4DR
  - b. you should confirm the accuracy of the transaction data you propose to send to us with any PSP who requests it

## 2 The PSR regulatory fees regime consultation

### The fees consultation process

- 2.1** We have conducted a year-long review of the PSR's regulatory fees regime to make the process more sustainable, simple and proportionate. To enable us to consider fully the options and proposed rule changes, we have published:
- a. our first fees consultation in August 2017 (CP17/30)
  - b. our second fees consultation in December 2017 (CP17/44)
  - c. our third fees consultation in March 2018 (CP18/8)
  - d. our policy statement in June 2018 (this document)
- 2.2** The proposals in the review have been consulted on and implemented in stages in order to align with the 2018/19 fees collection timetable.

**2.3** Table 1 provides an overview of the documents we have published in the review.

**Table 1: Timeline for consultation and decisions of this PSR fees review**

|                      |  |
|----------------------|--|
| <b>August 2017</b>   | <p><b>First consultation paper published</b> (CP17/30). This included consultation on:</p> <ul style="list-style-type: none"> <li>proposed changes to <b>the PSR's approach to fees collection</b> and the relevant draft amendments to the PSR fees rules in the FCA Handbook, FEES 9</li> <li>the guiding principles and high-level policy options on <b>the PSR's approach to fees allocation and calculation</b> and <b>related issues</b></li> </ul>  |
| <b>December 2017</b> | <p><b>Second consultation paper and policy statement published</b> (CP17/44). This included:</p> <ul style="list-style-type: none"> <li>decisions on matters consulted on in CP17/30</li> <li>consultation on further draft amendments to FEES 9 to enable the <b>change in the collection method</b></li> <li>consultation on our proposed <b>PSR fees allocation method</b> and the corresponding draft amendments to FEES 9</li> <li>further consultation on <b>related issues</b>, such as minimum transaction thresholds and the scope and definitions of relevant transactions, as well as the corresponding draft amendments to FEES 9</li> </ul>   |
| <b>March 2018</b>    | <p><b>Third consultation paper and policy statement published</b> (CP18/8). This included:</p> <ul style="list-style-type: none"> <li>decisions on matters consulted on in CP17/44</li> <li>the <b>PSR fees information for 2018/19</b></li> <li>consultation on <b>our proposed approach to publishing the annual figures</b> for PSR fees in the future</li> <li>consultation on <b>our approach to on-account fees collection</b> for 2019/20 and the corresponding draft amendments to FEES 9</li> <li>consultation on <b>the definition of relevant transactions</b> and the corresponding draft amendments to FEES 9</li> <li>consultation on <b>our approach in the event of an underspend</b> in future, including our approach to the 2017/18 underspend</li> </ul> |
| <b>June 2018</b>     | <p><b>Policy statement published</b> (this document). This includes:</p> <ul style="list-style-type: none"> <li>decisions on matters consulted on in CP18/8</li> <li>a restatement of <b>our confirmed approach to PSR fees</b> from 2018/19 onwards</li> </ul>  |



### 3 Decisions on matters we consulted on in CP18/8 and our response to other issues raised

---

In this chapter, we set out our decisions on matters we consulted on most recently in CP18/8 (March 2018), having assessed our original proposals against the responses we have received. These matters include:

- our approach to publishing the annual figures for PSR fees in future
- amended definition of relevant transactions in the C&C system to include transactions processed through the ICS
- our approach to on-account PSR fees collection from 2019/20 onwards
- the PSR's approach to its underspend, including the 2017/18 underspend

We also provide our response to some of the issues raised in the responses to CP18/8 and our guidance on those matters.

---

#### Our approach to publishing the annual figures for PSR fees in future

- 3.1** In CP18/8, we consulted stakeholders on our proposal to reduce the number of future changes to our fees rules (FEES 9) contained within the FCA Handbook.
- 3.2** Previously, our fees rules made references to the annual funding requirement (AFR) and transaction figures that underlie the fees calculations relevant only for a single fee year. These required the fees rules to be updated every year to reflect the annual figures, and obliged us to consult on this change – even though the methodology behind the calculations remained unchanged.
- 3.3** We proposed to remove references to the yearly AFR and transaction figures from our fees rules. We proposed in the future for our fees rules to only contain the underlying fees methodology and formula, making it unnecessary to update the rules every year. The PSR would publish the annual AFR and transaction figures on its website every year before we collected PSR fees in the summer. The figures could then be applied to the methodology set out in the rules if stakeholders wished to understand how their own fees for that year had been calculated.

**3.4** We put forward the following reasons in support of this proposal:

- a. None of the figures we would update annually are subject to interpretation or can be affected by consultation.
- b. In the past, we have not received any material comments when we proposed amendments to the rules for the purpose of only updating the annual figures.
- c. PSPs are no longer required to pay their PSR fees in parts to different operators, and operators are no longer required to collect partial PSR fees from PSPs. Consequently, PSPs and operators are no longer required to use the figures set out in the fees rules to do any calculations themselves – this is all carried out by the FCA under the new fees process.
- d. The proposal would remove the need for yearly changes or consultation that stakeholders have indicated has become a burden in its own right.
- e. We would continue to be transparent and would continue to publish all relevant fees information including the annual figures. We would consult stakeholders if we proposed any changes to the underlying methodology.

**3.5** We have set out the context and the reason for the proposal in more detail in CP18/8 (paragraphs 6.1 to 6.7).

**3.6** All stakeholders agreed with our proposal. Those who expressed a view said that:

- a. they value the simplicity the proposal would bring, because it removes a burdensome process that involves only minor changes and undermines the wider consultation process more generally
- b. they are pleased that the PSR has designed a process that no longer requires the publication of confidential data, for example the overall transaction volumes and values of payment systems
- c. they would encourage the PSR to communicate the annual figures in a consistent format and time frame every year, which it plans to do; and to justify any changes in the AFR annually, which the PSR already does and will continue to do through its annual plan publications
- d. while they agree with removing the need for yearly changes in the fees rules, they would encourage the PSR to consider periodically whether the fees regime remains appropriate as the market conditions change and whether a future consultation is necessary to reflect those changes, which it will do

**3.7** Because stakeholders are strongly supportive of the proposal and its underlying reasoning, we have proceeded to implement it this year. The relevant amendments to the fees rules in FEES 9 have been made, as you can see in Annex 1. The amendments are FEES 9.1.2G, FEES 9.1.8G and FEES 9 Annex 1R.

## Amended definition of relevant transactions for the C&C system

**3.8** In CP18/8, we consulted on a proposed change to the definition of relevant transactions for the C&C system in our fees rules. This is because the previous definition was based only on paper-based processing of those transactions. We considered that it is appropriate to amend the definition for the following reasons:

- a. We expect the volume and value of C&C transactions processed digitally to increase significantly, although there will still be paper-based clearing of those transactions.
- b. The operator of the C&C system uses different terminologies for paper-based clearing and image-based clearing.

**3.9** Therefore, we originally proposed to amend the definition of relevant transactions for the C&C system in our rules as follows to reflect this:

*'All transactions for GBP, USD and EUR processed through the C&C regulated payment system. This includes 'in clearing' and 'out clearing' transactions in paper-based clearing, and the initiation and the receipt in the transfer of funds in image-based clearing.'*

**3.10** More details of our proposal including the underlying reasoning can be found in CP18/8 (paragraphs 6.12 to 6.18).

**3.11** Most stakeholders agreed or made no comment. The operator of the C&C system suggested an alternative definition, which removes references to EUR and USD and replaces 'initiation' with 'payment' in the context of image-based clearing. Our response is as follows:

- a. That operator informed us that the central system for clearing cheques or other payment instruments in USD has ceased, and the central system for clearing EUR cheques and other paper instrument will cease sometime later in 2018. It told us that exchange and settlement of USD and EUR cheques drawn on PSPs within the UK will continue but that will only be done on a bilateral basis between the relevant PSPs and outside of any central system.

All cheques and other paper instruments that are processed through the C&C system should be included as relevant transactions for PSR fees purposes. This means all USD and EUR transactions that were centrally processed through the C&C system in 2017 and 2018 are in scope of PSR fees for 2018/19 and 2019/20 respectively.

However, transactions that are processed by PSPs bilaterally are not in scope of PSR fees. The proposed wording in paragraph 3.9 could create confusion as to whether foreign currency transactions will need to be included for PSR fees when they are processed bilaterally, after the central system for clearing those transactions is phased out.

We are therefore removing all references to currencies from the definition. This means that all transactions processed through the C&C system are included, and the USD and EUR transactions processed by PSPs bilaterally outside of the C&C system will not be caught by the definition for PSR fees. This is consistent with the definition of relevant transactions in other payment systems under the fees rules.

- b. We agree that the alternative wording using 'payment' avoids confusion. 'Initiation' in the context of a cheque payment can have two interpretations, which are:
  - i. the start of a cheque's journey through the C&C system (that is, when a PSP that received a cheque deposit sends it through the system), or
  - ii. the initiation of a transfer of funds once the cheque is in the system (that is, when the PSP that issued the cheque sends funds to the PSP that supplies the payment account to the intended recipient named on the cheque)

**3.12** One stakeholder raised a concern that the definition, which counts two PSPs per transaction, might lead to double counting of transactions in the C&C system and thereby overpayment of PSR fees by its members.

**3.13** The definition will not lead to any overpayment by PSR fee payers. In all designated payment systems, we count each transaction twice – assigning one part to the PSP payer (or issuer) and the other part to the PSP payee (or acquirer). This means that two PSPs contribute to PSR fees for every transaction in all systems.

**3.14** For the above reasons, we have decided to implement the following definition:

*'All transactions processed through the C&C regulated payment system. This includes 'in clearing' and 'out clearing' transactions in paper-based clearing, and the payment and receipt in the transfer of funds in image-based clearing.'*

**3.15** The relevant amendments to the fees rules in FEES 9 have been made in FEES 9 Annex 1R, as you can see in Annex 1 of this document.

## On-account fees collection from 2019/20

**3.16** In CP18/8, we proposed to align PSR's on-account fees collection rules with those of the FCA.

**3.17** The collection of on-account fees, due by 1 April, is the first of two fees collection points in each fee year for PSR fees and FCA fees. The collection is intended to cover the organisations' spending in the first half of each year. Previously, the PSR and the FCA had separate rules for that first collection.

**3.18** In light of our decision to implement direct billing (CP17/44), whereby the FCA directly collects PSR fees, we proposed to align the approach of collecting PSR fees on-account with the approach for FCA fees. In particular, the proposed rules would say that PSR on-account fees would only be due from firms that are already required to pay FCA on-account fees. More details of the proposal can be found in CP18/8 (paragraphs 6.19 to 6.25).

**3.19** We considered the following in our original proposal:

- a. The suggested alignment would simplify fees collection for fee payers that pay PSR fees and FCA fees.
- b. It would be better value for money to align the PSR's process with that of the FCA, rather than keeping processes for PSR fees and FCA fees separate, as the FCA incurs costs in collecting PSR fees.
- c. The impact on fee payers is solely one of timing (that is, if they need to pay part of their PSR fees in advance).
- d. The impact on the PSR's cash flow is likely to be minimal.

**3.20** Most respondents agreed with our assessment and expressed their support for the alignment, expecting it to simplify the process.

**3.21** Only one stakeholder disagreed – on a point relating to the premise of our consultation question. Instead of addressing whether we should align the PSR on-account fees collection process with that for FCA fees, the stakeholder said that the PSR should not retain an on-account collection process at all given its size, and should instead manage its cashflow in a way that would remove the need for that process. We do not agree with that assessment for these reasons:

- a. The alternative approach of not collecting on-account fees would require the PSR to keep a surplus of fee payers' cash every year – the surplus would need to be large enough to cover its spending in the first half of the following year, which we do not think is proportionate or efficient.
- b. The approach would also annually require the PSR to produce an accurate forecast of its spending over a eighteen month to two-year period, which would likely be more difficult than its current yearly forecasts.
- c. Furthermore, given the other changes in this fees regime review, there are limited additional benefits in removing the on-account collection process:
  - i. Operators would not see any additional benefit because we have removed the requirement for them to collect PSR fees, which are now collected directly by the FCA.
  - ii. Through the proposed alignment set out in paragraph 3.18, fee payers would need to pay on-account PSR fees only if they already pay FCA on-account fees. Therefore, removing the PSR on-account collection would not simplify the process for fee payers or the FCA.

**3.22** We have decided to implement the proposal based on the reasoning set out above. The relevant amendment to the fees rules in FEES 9 have been made in FEES 9.2.2R and FEES 9.2.3R, as you can see in Annex 1 of this document.

## The PSR's approach to its underspend

- 3.23** The FCA does not provide a refund to its fee payers in the event of an underspend. It simply reduces the amount of fees it collects for the following year. In CP18/8, we proposed to align the PSR's approach with the FCA's.
- 3.24** We asked stakeholders if they agreed with the proposal not to return to fee payers the PSR's underspend proportionately based on how the previous year's fees were calculated, but simply to deduct the amount from the following year's AFR before it was apportioned to that year's fee payers. More details of the proposal can be found in CP18/8 (paragraphs 6.26 to 6.36). We put forward the following reasons in support of this proposal:
- a. Because the FCA will be collecting fees directly from the PSR's fee payers, rather than through operators, it is logical and efficient to align with the FCA's process.
  - b. The PSR's underspend in the future years is expected to be low as it improves its budget forecasting. In the past, it had a higher underspend which meant it was more proportionate to refund fee payers based on how the previous year's fees were calculated.
  - c. The proposed approach would align the PSR's treatment of an underspend with its default approach in the event of an overspend in any given year. If the PSR has an overspend, its default position is that it would borrow money that year to fund the cost of its operations. It would then recover the borrowed amount from the following year's fee payers, rather than requesting more money from the fee payers of the previous year.
- 3.25** Most respondents agreed with this proposal. Those who expressed a view said that it is common practice among other regulators to simply reduce the amount to be collected in the following year whenever there is a surplus or underspend. They also said that our proposal removes an unnecessary administrative burden that would amount to little difference for fee payers.
- 3.26** One respondent disagreed and said it would be more proportionate to return any underspend to fee payers based on the proportion of fees they paid in the year in which the underspend was generated. We do not agree with this assessment.
- a. The FCA, which collects PSR fees, does not currently adopt that approach for its own fees. It would be disproportionate to set up a separate process to refund PSR fees that way when FCA and PSR fees are collected on a consolidated basis.
  - b. As already mentioned, the PSR is expected to have smaller amounts of underspend in future, which makes it difficult to justify having a separate refunding process for PSR fees.
  - c. Once the new allocation methodology enters a steady state, the proportion of PSR fees among fee payers is unlikely to fluctuate significantly every year. Fee payers are unlikely to see a material difference between the returns using the same year's fees calculation and those using that of the following year.
  - d. The approach preferred by the respondent (in the event of a surplus) is not consistent with what the PSR would currently do if there is a deficit (see paragraph 3.24c). Treating surpluses and deficits differently can lead to inconsistent outcomes for fee payers.

- 3.27** We also asked stakeholders if they agreed with our implementing the proposal this year, which would affect the 2017/18 underspend, or if we should implement it next year.
- 3.28** Most stakeholders agreed with implementing the proposal this year (for the 2017/18 underspend). Those who expressed a view said that collecting fees and returning the underspend of those fees on a different basis does not create any logical inconsistency. They also noted that there is no strong reason for delaying the alignment, and that introducing it this year could lessen the overall impact of change on the fees process.
- 3.29** Some stakeholders supported implementing the proposal next year instead. They said implementing it this year would be disproportionate because the 2017/18 fees – calculated using the old allocation method – would be returned to fee payers under the new allocation method introduced for 2018/19 fees. We disagree that this would be disproportionate for the following reasons:
- a. Aligning the PSR's approach to underspend with that of the FCA in the same year as the move to direct billing of fee payers by the FCA is the most efficient way forward. The alternative would involve setting up a separate process to refund the PSR's 2017/18 underspend. That process would only run for one year before the PSR aligns its approach with the FCA's next year.
  - b. The overall amount of the PSR's 2017/18 underspend is small relative to previous years – it is around £1 million, about 8% of the PSR's 2017/18 budget.
  - c. Implementing the proposed alignment for the 17/18 underspend also provides a degree of 'smoothing' and lessens the overall impact of the change of fees allocation methodology introduced earlier in the fees regime review. For example, firms that need to pay more in PSR fees under the new methodology would receive a bigger refund than they would otherwise have, and vice versa. In that sense, this can be seen as providing some sort of a transition for fee payers, even though the amount of smoothing is likely to be small.
- 3.30** One stakeholder supported implementing the proposal but raised concerns that if we implement it this year, members of the Belfast Bankers' Clearing Company Ltd (BBCCL) would not benefit from our return of PSR's 2017/18 underspend because the company will cease to operate. We disagree with this assessment because existing BBCCL members that process cheque or credit transactions in future will continue to contribute to PSR fees under the C&C system, and will therefore still benefit under the proposal, based on their PSR fees under the new fees allocation methodology.
- 3.31** Having considered the submissions made, we remain of the view that the original proposal to align the PSR's approach to underspend with that of the FCA should be implemented – for the reasons set out in paragraphs 3.24 to 3.26. We have therefore decided to implement that proposal. We will also implement it for the PSR's 2017/18 underspend based on the reasoning set out in paragraphs 3.28 to 3.30.

## Other issues raised in the responses to CP18/8

### Verification of transaction data

- 3.32** Some respondents to CP18/8 repeated concerns that the guidance on data verification imposes too much of a burden on them as operators, while other PSP respondents had an opposing view that we should require operators to verify the data.
- 3.33** We explained our approach towards the verification of transaction data in CP18/8 and we do not propose to make further changes to the fees rules. We reiterate the importance for us to have accurate transaction data. This is because the data is used to calculate fees for fee payers, and inaccurate data can undermine the functioning of the regime and may lead to unfair fees allocation.
- 3.34** We note the following:
- a. Direct PSPs are able to engage with their operators to check that they are content with the transaction data submitted by the operators to the PSR and the FCA. In previous responses to our fees consultations, some PSPs indicated that they did not want the burden of having a requirement to verify the data, but would rather have the option to do so if they wished.
  - b. If we find operators not engaging with PSPs' requests in the spirit of the guidance in FEES 9, where we set out our fees rules, then we may take further action to ensure the fair functioning of the fees regime.
- 3.35** There is some flexibility in terms of how that verification should take place. The guidance states that an operator should confirm the accuracy of the transaction data it proposes to submit if a PSP requests it. We do not specify how or when that confirmation should take place (although it must be done by 1 March for it to be factored into our fees calculations). We note the following:
- a. This arrangement recognises that payment systems have different processes and that operators should be given the flexibility to decide how best they can meet the guidance on verifying transaction data.
  - b. Some operators already verify transaction data with PSPs for their own reporting and invoicing purposes. We expect that if they use the same data for PSR fees, there is no need for more verification before they submit the data to us. Our guidance does not anticipate the need for operators to establish a further process for verifying data if existing processes are sufficient.
- 3.36** We would expect it to be in the interests of both PSPs and operators to verify the data in plenty of time before operators send it to us by 1 March.



**3.37** After that deadline, we would have to use the data supplied and there is little scope for change in the data and the fees allocation. We consider that appropriate for the following reasons:

- a. Once the fees allocations are done, it is difficult to make changes as they would affect all fee payers.
- b. PSPs should have had sufficient opportunity to verify data, if they wish to, with operators throughout the previous year up until the point of submission.

**3.38** In any case of dispute, before or after the submission of the data, PSPs should resolve this with the operators. We note the following:

- a. This is not 'new' – in the past, operators used transaction data to allocate PSR fees, and if there was any data issue this was resolved among themselves.
- b. When there is a manifest failure on the part of the operator or PSP to provide accurate data, we will consider taking further regulatory action.

### Provision of contact details

**3.39** One operator who responded to CP18/8 repeated concerns regarding the requirement for it to provide us with contact information for its PSP members. We remain of the view that this information is essential for us to get in touch with fee payers and enable direct billing of PSPs by the FCA. This move to direct billing is strongly supported by different groups of stakeholders including that operator.

**3.40** We remain of the view that operators are best placed to know and provide information on who the participants in their systems are. We expect that all operators should reasonably have or require a channel of communication through which to contact their members.

**3.41** We would reiterate, however, that only certain information is needed. We expect operators to have taken reasonable steps to obtain and provide the basic information that would enable us to establish direct billing and to address matters with the PSPs as they arise.

**3.42** We would also reiterate that operators are not required to contact all PSPs to obtain and reconfirm the information every year. What we would expect is that reasonable steps are taken to inform us of any changes to the PSR fee payers in their systems, including any changes to their contact information. For example, if an operator has received information from a PSP about a change, we would expect that operator to include that change in their annual submission of contact information to us.

**3.43** As we noted in CP18/8, where an operator cannot provide the information we have asked for and, as a result, we have insufficient information to enable direct billing, the PSR will consider the appropriateness of giving a specific direction to that operator and other relevant parties. That direction may require, for example, the operator to make arrangements to obtain the relevant contact information from its members in order for direct billing to work.

## 4 Our approach to the PSR regulatory fees regime – a restatement

---

In this chapter, we summarise the new PSR regulatory fees regime, following the conclusion of our year-long review. We cover, in particular:

- the annual timeline for data provision and fees collection
  - provision and verification of transaction and contact information
  - our new fees collection method
  - our new fees allocation methodology
  - our treatment of underspend (surplus) and overspend (deficit)
- 

### The annual timeline for data provision and fees collection

- 4.1** Following this consultation round, which closes with this policy statement, we intend to enter into a business-as-usual state for fees collection. This means that our stakeholders will not need to consider significant changes to our fees methodology every year – as they have done in the past.
- 4.2** Table 2 sets out our expected annual fees collection timeline. This includes the timings for when:
- a. payment system operators** should submit the relevant transaction data and contact details to the PSR and FCA
  - b. the PSR** will publish the annual figures for calculating PSR fees for that fee year
  - c. fee payers** can expect to pay the PSR fees, after receiving an invoice from the FCA

**Table 2: Timeline for PSR data provision and fees collection for each fee year (from 1 April to 31 March of the following calendar year)**

|                          |   |
|--------------------------|---|
| <b>February to March</b> | <p>The FCA sends <b>eligible fee payers</b> invoices for on-account PSR fees for the next fee year starting on 1 April. These on-account fees are based on the fee payers' fees for the fee year ending on 31 March.</p> <p>These fee payers pay on-account fees by 1 April.</p>  |
| <b>By 1 March</b>        | <p><b>Operators</b> submit transaction data from the previous calendar year and relevant contact details to the PSR and the FCA by 1 March.</p> <p><b>Fee payers</b>, if they wished, should have contacted operators to confirm the accuracy of their respective transaction data before the operators submit it to the PSR and FCA.</p>                                   |
| <b>By early July</b>     | <p>The PSR publishes the annual PSR fees information for the fee year starting on 1 April – namely:</p> <ul style="list-style-type: none"> <li>the PSR's annual funding requirement for the relevant fee year minus any underspend in the previous fee year</li> <li>the consolidated transaction data submitted to the PSR and the FCA by operators (see above)</li> </ul> |
| <b>July to August</b>    | <p>The FCA issues invoices to <b>all fee payers</b> for the remainder of PSR fees for that financial year.</p> <p>On-account fee payers pay the balance of PSR fees for that fee year by 1 September. This is their PSR fees less any on-account payments made (see above).</p> <p>All other fee payers pay PSR fees within 30 days of receiving the invoice.</p>           |

## Verification and provision of transaction and contact data

**4.3** This section sets out the PSP data that operators need to supply to the PSR as part of the new regulatory fees regime.

### Verification and provision of transaction data

**4.4** Operators will be required to submit transaction data to the PSR every year. This requirement is set out in FEES 9.2.4DR(a).

**4.5** We also set out in the fees rules a guidance provision (FEES 9.2.4GG). This states that, if requested by PSPs, operators should verify the accuracy of their transaction data before they supply it to us for fees calculations.

**4.6** We do not specify how or when that confirmation should take place (although it must be done by 1 March for it to be factored into our fees calculations). Our guidance does not anticipate the need for operators to establish a further process for verifying data if existing processes are sufficient.

- 4.7** We would expect it to be in the interests of both PSPs and operators to verify the data in plenty of time before operators send it to us by 1 March.
- 4.8** After that deadline, we will have to use the data supplied and there is little scope for change in the data and fees allocation.
- 4.9** In any case of dispute, before or after the submission of the data, PSPs should resolve this with the operators.
- 4.10** More details of our decision can be found in paragraphs 5.1 to 5.10 of CP18/8 and paragraphs 3.32 to 3.38 in this document.

### Provision of contact details

- 4.11** Another element that is essential for the fair functioning of the fees regime is the provision of PSP contact details by operators to us.
- 4.12** Operators will be required to provide contact information for PSPs every year. This requirement is set out in FEES 9.2.4DR(1)(b).
- 4.13** More details of our decision can be found in paragraphs 5.11 to 5.19 of CP18/8 and paragraphs 3.39 to 3.43 in this document.

## Our new PSR fees collection method

- 4.14** Each year, there are two collections of PSR fees. The collection of on-account fees, due by 1 April, is the first of two fees collection points in each fee year for the PSR and the FCA. The collection is intended to cover our spending in the first half of each year. The collection of the remainder of the fees, sometimes called 'periodic fees', is due by 1 September or 30 days from the date of the invoice. This collection is intended to collect the remainder of fees to cover our spending in the rest of the year.
- 4.15** As part of the review of our fees regime, we have moved to a method whereby the FCA would directly collect PSR fees from PSPs, using the data supplied by the operators. The FCA will handle the liaison with PSP fee payers directly, and will chase fee payers directly for late payments. This process requires operators to provide accurate transaction and contact information to us, which we have discussed in greater detail in the previous section.

**4.16** Every fee year, the FCA will collect PSR fees in the following ways:

- a. **First collection:** In around February every year, the FCA will reach out to fee payers who need to pay FCA fees on-account.<sup>4</sup> Included in the consolidated bill will be that fee payer's FCA on-account fees as well as on-account fees for the PSR and other organisations.<sup>5</sup> The fees will be due by 1 April.
- b. **Second collection:** From around July, the FCA will reach out to all PSR fee payers and send them a consolidated bill containing their PSR fees for that fee year<sup>6</sup>, net of any amount they have paid on account in the first collection.

**4.17** More details of our decision can be found in Chapter 3 of CP17/44 and in paragraphs 3.16 to 3.22 of this document.

## Our new PSR fees allocation methodology

**4.18** Every year, we will assign the PSR's overall annual funding requirement (AFR), the PSR's projected spend for a particular year, to two blocks – the transaction volume block and the transaction value block. Each fee payer pays PSR fees based on the relative size of their total transaction volumes and total transaction values across all PSR-regulated payment systems.<sup>7</sup>

**4.19** Each fee payer's PSR fees for 2018/19 is determined by the following formula:

$$\begin{aligned}
 &\textbf{Fees allocated to a PSR fee payer} \\
 &= \\
 &\text{its fees under the volume block (Vo)} \\
 &+ \\
 &\text{its fees under the value block (Va)} \\
 &\hline
 &\textbf{Vo} \\
 &= \\
 &(\text{AFR} \times \textbf{80\%}) \\
 &\times \\
 &\left( \frac{\text{The fee payer's relevant transaction volumes in all systems}}{\text{The sum of all fee payers' transaction volumes across all systems}} \right) \\
 &\textbf{Va} \\
 &= \\
 &(\text{AFR} \times \textbf{20\%}) \\
 &\times \\
 &\left( \frac{\text{The sum of the fee payer's relevant transaction values in all systems}}{\text{The sum of all fee payers' transaction values across all systems}} \right)
 \end{aligned}$$

4 More details of the decision and the rationale behind it can be found in paragraphs 3.16 to 3.22 of this document.

5 For more details, please see CP17/44 paragraphs 3.1 to 3.18.

6 As above.

7 More details of the decision and the rationale behind it can be found in CP18/8 paragraph 3.19.

**4.20** With regard to variables, we will provide every year the updated figures for:

- a. the PSR's AFR
- b. the sum of all fee payers' transaction volumes across all systems
- c. the sum of all fee payers' transaction values across all systems

These annual figures will provide transparency to the fees process and allow a fee payer to independently check its PSR fee that year, using its own transaction volumes and values data (highlighted in the formula above).

**4.21** The **80:20 volume-to-value ratio** is fixed and is not subject to change every year.<sup>8</sup> We will consult stakeholders if we propose to change the ratio.

**4.22** For the transaction value block, we will use HMRC's published yearly average foreign exchange rates to convert non-GBP transactions to GBP.<sup>9</sup>

### Fee payers

**4.23** There are two broad groups of PSR fee payers. These are:

- a. PSPs that are direct participants in any of the PSR-regulated payment systems ('direct PSPs'); each would pay PSR fees based on their transactions processed through those systems relative to all fee payers' combined transactions in all PSR-regulated payment systems
- b. operators that also act as PSPs and that we would continue to treat as PSR fee payers; each would pay PSR fees based on the transactions in its system relative to all fee payers' combined transactions in all PSR-regulated payment systems

**4.24** PSR fees continue to be out of scope for VAT for the above groups. This is possible because we continue to allocate fees to direct PSPs only (or operators acting as such), instead of allocating fees to the operators of the relevant payment systems who would then pass on the regulatory costs to the PSPs.

**4.25** We will allocate PSR fees to direct PSPs and not to PSPs that access those payment systems through other PSPs ('indirect PSPs'). The indirect PSPs' transactions will be counted as belonging to the direct PSPs that provided the access.<sup>10</sup>

<sup>8</sup> To see a more detailed discussion of why we proposed this ratio, see CP17/44, paragraphs 4.24 to 4.26.

<sup>9</sup> *HMRC foreign exchange rates: yearly averages and spot rates*, Average for the year to 31 December 2017, [www.gov.uk/government/publications/exchange-rates-for-customs-and-vat-yearly](http://www.gov.uk/government/publications/exchange-rates-for-customs-and-vat-yearly).

<sup>10</sup> More details of the decision can be found in CP18/8 paragraph 3.19 f.

## Scope of relevant transactions for fees allocation

- 4.26** We will use the following approach to decide what the scope of relevant transactions should be for each PSR-regulated payment system:<sup>11</sup>
- a. If a payment system is designated under the Financial Services (Banking Reform) Act 2013 (FSBRA), we will take into account all transactions with a UK element ('FSBRA scope'). This covers any designated system that we also regulate under other legislation. For example, if we regulate a system because of its exposure to both FSBRA and the Payment Card Interchange Fee Regulations 2015 (PCIFRs), we will include all relevant transactions under the FSBRA scope for that system.
  - b. If the payment system is not designated under FSBRA, the scope of relevant transactions will be dependent on the legislation that brings the system under our regulation. For example, if we regulate a card scheme only because of its exposure to the PCIFRs, we will only include the transactions that are relevant to the PCIFRs.

## Our approach to underspend (surplus) and overspend (deficit)

- 4.27** While the PSR tries to accurately forecast its spend every year, it may end up spending less or more than it has expected at the beginning of that year.
- 4.28** If the PSR has an underspend, it will deduct the amount from the following year's AFR before it is apportioned to that year's fee payers.<sup>12</sup>
- 4.29** If the PSR has an overspend and has used up its reserves, it may borrow money that year to meet the deficit and fund the cost of our operations. It will then recover the borrowed amount from the following year's fee payers.

<sup>11</sup> The decision can be found in CP18/8 paragraph 4.3.

<sup>12</sup> More details of the decision and the rationale behind it can be found in paragraphs 3.23 to 3.31 of this document.

## **Annex 1:**

# Fees instrument making amendments to the existing PSR fees rules



**FEES (PAYMENT SYSTEMS REGULATOR) INSTRUMENT (No 7) 2018**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions:
- (1) paragraph 9 (Funding) of Schedule 4 (The Payment Systems Regulator) of the Financial Services (Banking Reform) Act 2013 (“FSBRA”);
  - (2) in and under Regulation 15 of The Payment Card Interchange Fee Regulations 2015 (SI 2015/1911);
  - (3) in and under Regulation 136 of the Payment Services Regulations 2017 (SI 2017/752); and
  - (4) 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 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority).
- 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 29 June 2018.

**Amendments to the Handbook**

- D. The Glossary 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.

**Citation**

- F. This instrument may be cited as the Fees (Payment Systems Regulator) Instrument (No 7) 2018.

By order of the Board  
28 June 2018

## **Annex A**

### **Amendments to the Glossary of definitions**

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

|                  |  |
|------------------|--|
| <i>PSR's AFR</i> | the annual funding requirement of the <i>PSR</i> which is published by the <i>PSR</i> at the start of each <i>fee year</i> . |
|------------------|--|

## Annex B

### Amendments to the Fees manual (FEES)

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

## 9 Payment Systems Regulator funding

### 9.1 Application and purpose

Purpose

- 9.1.2 G This chapter sets out how the fee payable by *PSR fee payers* will be calculated, to establish and fund the *PSR*.

...

~~Annual budget and annual plan~~ Publication of fees information

- 9.1.8 G (1) *PSR fees* will vary from year to year, depending on the *PSR's* ~~annual plan and budget~~ *AFR* and the *transaction volumes* and *transaction values* in the *relevant time period*.
- (2) ~~These details are in FEES 9 Annex 1R.~~ The *PSR* will publish each year the *PSR's AFR* along with the total *transaction volumes* and *transaction values* for the *relevant time period* to enable *PSR fee payers* to apply the methodology in *FEES 9 Annex 1R* if they wish.
- (3) ~~The *FCA* and *PSR* will prepare and consult on new details for each fee year.~~ [deleted]

### 9.2 PSR fees

...

Time of payment

- 9.2.2 R ~~If the *PSR fee* paid by a *PSR fee payer* for the previous *fee year* was at least £20,000, that *PSR fee payer*~~ *PSR fee payers* falling within the scope of *FEES 4.3.6R(1C) – (1E)* must pay to the *FCA*:
- (1) an amount equal to 50% of the *PSR fee* payable for the previous *fee year*, by 1 April in the current *fee year* or, if later, within 30 days of the date of the invoice; and

- (2) the balance of the *PSR fee* due by 1 September in the current *fee year* or, if later, within 30 *days* of the date of the invoice.

...

9.2.3 R If ~~the *PSR fee* paid by a *PSR fee payer* for the previous *fee year* was less than £20,000~~ FEES 9.2.2R does not apply, the *PSR fee payer* must pay its *PSR fee* in full to the *FCA*:

- (1) by 1 August in the current *fee year*; or
- (2) if later, within 30 *days* of the date of the invoice.

...

**9 PSR fees ~~for the period 1 April to 31 March for each fee year~~ methodology**  
**Annex**  
**1R**

The table below shows the methodology used by the *FCA* to determine the *PSR fee* applicable to *PSR fee payers* for each *fee year*.

| Regulated payment system or IFR card payment system<br>(column 1) | Relevant transactions<br>(column 2)   | Relevant time period<br>(column 3)   | Volume block (“Vo”)<br>(column 4)  | Value block (“Va”)<br>(column 5)  | Calculation methodology for <i>PSR fee</i> payable<br>(column 6)   |
|---|---|--|--|---|--|
| <i>Bacs</i>   | All transactions processed through the <i>BACS regulated payment system</i> . Transactions include both the initiation of the transfer of the funds, and the receipt of transferred funds.  | The full calendar year (1 January to 31 December) before the start of the relevant <i>fee year</i> . | $V_o = (PSR's AFR\pm \times 80\%) \times \text{the } PSR \text{ fee payer's } \cancel{\% \text{ in percentage share of}} \text{ the volume block}$<br>$\text{A } PSR \text{ fee payer's } \cancel{\% \text{ in percentage share of}} \text{ the volume block} = \left( \frac{\text{Sum of that } PSR \text{ fee payer's relevant transaction volumes in all systems}}{\text{Sum of all } PSR \text{ fee payers' relevant transaction volumes across all systems}^{**\pm}} \right)$ | $V_a = (PSR's AFR\pm \times 20\%) \times \text{the fee payer's } \cancel{\% \text{ in percentage share of}} \text{ the value block}$<br>$\text{A } PSR \text{ fee payer's } \cancel{\% \text{ in percentage share of}} \text{ the value block} = \left( \frac{\text{Sum of that } PSR \text{ fee payer's relevant transaction values in all systems}}{\text{Sum of all } PSR \text{ fee payers' relevant transaction values across all systems}^{**\pm}} \right)$ | <b>Fees allocated to a <i>PSR fee payer</i></b><br>=<br>its fees under the volume block ( $V_o$ ) + its fees under the value block ( $V_a$ ) |
| <i>C&amp;C</i>  | All transactions <del>including ‘in clearing’ and ‘out clearing’ transactions for GBP, USD and EUR</del> processed through the <i>C&amp;C regulated payment system</i> . <u>This includes ‘in clearing’ and ‘out clearing’ transactions in paper clearing, and the payment and the receipt of the transfers of funds in image clearing.</u> | For example this would be 1 January to 31 December 2017 for the 2018/2019 <i>fee year</i> .          |  |   |  |
| <i>CHAPS</i>  | All MT103 and MT202 transactions processed through the <i>CHAPS regulated payment system</i> . Transactions include both the initiation of the transfer of the funds, and the receipt of transferred funds.   |  |  |   |  |
| <i>FPS</i>  | All transactions processed through the <i>FPS regulated payment system</i> . Transactions include both the initiation of the transfer of funds, and the receipt of transferred funds.   |  |  |   |  |

| Regulated payment system or IFR card payment system<br>(column 1) | Relevant transactions<br>(column 2)   | Relevant time period<br>(column 3) | Volume block ("Vo")<br>(column 4) | Value block ("Va")<br>(column 5) | Calculation methodology for PSR fee payable<br>(column 6) |
|---|---|------------------------------------|-----------------------------------|----------------------------------|---|
| <i>LINK</i>   | All transactions issued and acquired under the <i>LINK regulated payment system</i> , including GBP cash withdrawals, foreign currency dispenses, balance enquiries, PIN management, charity donations, non-cash transactions and mobile payment transactions but excluding 'on us' transactions. Both issuing and acquiring transactions are taken into account.   |                                    |                                   |                                  |   |
| <i>Mastercard</i>   | All transactions by acquirers operating in the United Kingdom and transactions by 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 'on us' transactions). Both issuing and acquiring transactions are taken into account. |                                    |                                   |                                  |   |

| Regulated payment system or IFR card payment system (column 1) | Relevant transactions (column 2)   | Relevant time period (column 3) | Volume block (“Vo”) (column 4) | Value block (“Va”) (column 5) | Calculation methodology for <i>PSR fee</i> payable (column 6) |
|--|--|---------------------------------|--------------------------------|-------------------------------|---|
| <i>NICC</i>  | All transactions including ‘in clearing’ and ‘out clearing’ transactions for GBP, USD and EUR processed through the <i>NICC regulated payment system</i> .   |                                 |                                |                               |   |
| <i>Visa</i>  | All <i>transactions by acquirers operating in the United Kingdom</i> and <i>transactions by card issuers operating in the United Kingdom</i> under the <i>Visa 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>Visa</i> branded transactions are included irrespective of the <i>processing entity</i> ( <i>Visa</i> itself, a third party <i>processing entity</i> or ‘ <i>on us</i> ’ <i>transactions</i> ). Both issuing and acquiring transactions are taken into account. |                                 |                                |                               |   |
| <i>AmEx</i>  | All <i>IFR transactions by acquirers operating in the United Kingdom</i> and <i>IFR transactions by card issuers operating in the United Kingdom</i> (or by the <i>operator</i> of that <i>IFR card payment system</i> acting as such an <i>acquirer</i> or <i>card issuer</i> )   |                                 |                                |                               |   |
| <i>Diners Club</i>   |  |                                 |                                |                               |   |
| <i>JCB</i>   |  |                                 |                                |                               |   |
| <i>UPI</i>   |  |                                 |                                |                               |   |

| Regulated payment system or IFR card payment system<br>(column 1)  | Relevant transactions<br>(column 2)  | Relevant time period<br>(column 3) | Volume block ("Vo")<br>(column 4) | Value block ("Va")<br>(column 5) | Calculation methodology for PSR fee payable<br>(column 6) |
|--|--|------------------------------------|-----------------------------------|----------------------------------|---|
|  | <p>under that <i>IFR card payment system</i>, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals.</p> <p>All transactions under the brand of that <i>IFR card payment system</i> are included irrespective of the <i>processing entity</i> (the <i>operator</i> or the <i>IFR card payment system</i> itself, a third party <i>processing entity</i> or '<i>on us</i>' transactions).</p> <p>Both issuing and acquiring transactions are taken into account for each <i>IFR card payment system</i>.</p> |                                    |                                   |                                  |   |
| <p><b>Notes:</b></p> <p>* <del>This is the PSR's annual funding requirement (AFR). The PSR will publish the PSR AFR for each fee year annually.</del></p> <p>**<del>≠</del> The PSR will publish this figure annually. The figure represents the sum of all PSR fee payers' relevant transaction volumes across all systems in the relevant time period.</p> <p>***<del>≠</del> The PSR will publish this figure annually. This figure represents the sum of all PSR fee payers' relevant transaction values across all systems in the relevant time period.</p> |  |                                    |                                   |                                  |   |



## Annex 2:

# Compatibility statement

- 2.1** In this annex, we set out our reasons for concluding that our decisions in this document are compatible with the requirements under the Financial Services and Markets Act 2000 (FSMA), as amended by FSBRA. The FCA and the PSR are not required to carry out a cost benefit analysis in relation to PSR fees rules.
- 2.2** When consulting on new rules, the FCA is required by section 138(2)(d) FSMA to explain why it believes making the rule changes are compatible with the FCA's strategic objectives, advances one or more of its operational objectives and has regard to the regulatory principles in section 38 FSMA. We set out our explanation in the section on objectives and regulatory principles below.
- 2.3** We also set out below our view of how the rule changes are compatible the following:
- a. The FCA's duty to discharge its general functions (which include rule-making) in a way that promotes effective competition in the interests of consumers (section 1B(4) FSMA). This duty applies in so far as promoting competition is compatible with advancing our consumer protection and/or integrity objectives.
  - b. The regulatory principles applicable to the PSR under section 53 FSBRA.
- 2.4** This annex further includes our assessment of the equality and diversity implications of these proposals, and other issues for consideration such as the implications of our proposals on financial stability.

## The FCA and PSR's objectives and regulatory principles

- 2.5** The proposals we set out in this consultation are not intended in themselves to advance the FCA's operational objectives. However, they will help the FCA to ensure that the PSR is capable of discharging its functions by funding the activities the PSR needs to undertake in 2018/19 to meet its responsibilities under FSBRA, the PCIFRs and PSRs 2017. Therefore, these proposals will indirectly advance the FCA's operational objectives of:
- delivering consumer protection – securing an appropriate degree of protection for consumers
  - enhancing market integrity – protecting and enhancing the integrity of the UK financial system
  - building competitive markets – promoting effective competition in the interests of consumers

**2.6** We consider these proposals to be compatible with the FCA's strategic objective of ensuring that the relevant markets function well, because they will help fund activities designed to meet this strategic objective.

**2.7** The FCA must also have regard to the regulatory principles set out in section 3B FSMA and the importance of taking action intended to minimise financial crime (section 1B(5) (b) FSMA).

**2.8** For the PSR, the proposals in this consultation will enable it to set out its fees allocation and collection method to fund its activities so that it can meet its statutory objectives. These are:

- to promote effective competition in the markets for payment systems and the services provided by payment systems, in the interests of service-users
- to promote development and innovation in payment systems, including in infrastructure used for the purpose of operating payment systems, in the interests of service-users
- to ensure that payment systems are operated and developed in a way that takes account of and promotes the interests of service-users

The funding also enables the PSR to carry out its functions to monitor and enforce the Interchange Fee Regulation and parts of the revised Payment Services Directive (PSD2).

**2.9** The most relevant regulatory principles are considered below. These are also broadly consistent with the PSR's regulatory principles under section 53 FSBRA.

#### (a) The need to use our resources in the most efficient and economical way

**2.10** The changes in the PSR regulatory fees regime are aimed at making the way we collect and allocate PSR fees relatively simple, transparent and predictable (and, as a result, low cost). We have aligned the PSR and FCA fees collection processes as closely as possible, including the collection of on-account fees and our treatment of an underspend, in order to maximise efficiency and rationalise duplicate processes. The changes reflect a balance between the need to use our resources in an efficient and economical way and an approach that is not disproportionate or unfair to individual payment systems or participants.

**2.11** We have also made changes to the regime to improve the sustainability of the PSR's fees allocation methodology, which should reduce the need for frequent changes to the fees rules. This should, in turn, reduce the amount of PSR and FCA resources spent on making or implementing these changes.

(b) The principle that a burden or restriction should be proportionate to the benefits, considered in general terms, that are expected to result from imposing it

**2.12** Through this review, we have removed the burden on payment system operators to calculate PSR fees for their members, collect them and send them to us, and to administer refunds of PSR fees to those members. In its place, the FCA will calculate, invoice and collect the PSR fees as part of the annual FCA fees process. This should also reduce the burden on fee payers because their PSR fees will be collected on a consolidated basis in one bill, instead of multiple bills from different operators for their participation in different systems.

**2.13** We impose certain requirements in relation to providing data. These requirements are, in general terms, proportionate to the benefits of a simplified PSR regulatory fees regime.

- a. We continue to require operators to provide us with transaction data from their systems. This is an existing requirement and is necessary for us to calculate the fees for our fee payers. We also include in the fees rules a guidance provision that operators will verify transaction data with PSPs when requested. This is necessary to ensure the effective functioning of the fees regime and the fair allocation of regulatory fees.
- b. We will also require operators to provide us with contact information for the PSPs in their system who need to pay PSR fees. As mentioned earlier, we have removed the burden on operators to collect PSR fees on our behalf. As part of this change, it is necessary for us to establish contact with those PSPs and collect PSR fees from them. Operators are best placed to give us contact information for the members in their systems.

**2.14** We have changed our fees allocation methodology. We consider that the expected benefits brought by change are proportionate to the burden imposed on operators and fee payers as a result of the change:

- a. The change should make PSR fees calculations more straightforward every year.
- b. The changes should also improve the sustainability of the PSR's fees allocation methodology, which should reduce the need for frequent amendments to the fees rules. This should, in turn, reduce the burden on operators and fee payers associated with these changes – for example, in considering and responding to our consultations regarding the changes and in implementing those changes.

(c) The desirability of exercising our functions in a way that recognises differences in the nature of the businesses carried on by the different persons we regulate

**2.15** We acknowledge the need to treat fee payers and operators differently when their situations vary. We had already factored this into our assessment of the original proposals in this fees regime review and before we made the decisions set out in this document.

**2.16** Our new fees allocation methodology aims to distinguish fairly between different fee payers based on different criteria:

- the frequency of using payment systems
- the economic benefit derived from using payment systems
- the size of the fee payer
- the general benefit the fee payer can expect from a well-functioning payments sector as a result of the PSR activities

The fees allocated to those firms are done so in broadly proportionate terms.

**2.17** We also take into account other differences among fee payers and their payment systems – for example, the scope and types of relevant transactions for fees allocation.

#### (d) The principle that we should exercise our functions as transparently as possible

**2.18** We consider that we have clearly described the changes in our regulatory fees regime, and have consulted on those changes openly and transparently. We believe that the reasoning for our decision and our proposals for further changes have been clearly spelled out and well evidenced in the documents we have published.

**2.19** As part of the change, we will publish the transaction figures and overall PSR fees to be collected every year. This will enable fee payers to understand how their yearly PSR fees are calculated.

#### (e) Compatibility with the duty to promote effective competition in the interests of consumers

**2.20** The PSR has an objective to promote effective competition in the markets for payment systems and services provided by payment systems. By supporting the PSR in raising its fees to fund its activities, the FCA is acting consistently with its duty to promote effective competition in the interests of consumers.

## Other considerations

#### (f) Equality and diversity

**2.21** We are required under the Equality Act 2010 to ‘have due regard’ to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. As part of this, we conducted an equality impact assessment to ensure that the equality and diversity implications of any new policy proposals are considered.

**2.22** We believe that none of the changes proposed raises issues of equality and diversity. This is because they are aimed at how we recover the cost of the PSR’s activities and they do not have a direct impact on consumers.

- 2.23** The funding for the PSR through the collection of PSR fees will enable it to progress its programme of work. This may in due course lead us to consider new general directions or generally applicable requirements (or modifications to existing ones). In these circumstances, the PSR will consider equality and diversity implications with regard to those specific proposals.

### (g) Impact on financial stability

- 2.24** The PSR has general duties under section 49(3)(a) FSBRA to 'have regard' to the importance of maintaining the stability of, and confidence in, the UK financial system.
- 2.25** None of the changes in our regulatory fees regime is expected to negatively affect financial stability. This is because the total PSR AFR is relatively small, and the fee allocated to each fee payer is unlikely to be high enough to have any material impact on financial stability.
- 2.26** Furthermore, our changes should reduce the existing burden on operators of payment systems. This would enable them to free up their resources for ensuring smooth functioning of the payment systems they operate, which would have a positive impact on financial stability.

## **Annex 3:**

# List of respondents to CP18/8

American Express

Belfast Bankers' Clearing Company

Cheque and Credit Clearing Company

LINK Scheme

Mastercard

Nationwide

New Payment System Operator

Royal Bank of Scotland

Visa

## Annex 4:

# Glossary

This table includes the glossary and abbreviations used for the purposes of this consultation paper.

Expressions that are defined in the fees rules are italicised in the table (for example, 'direct payment service provider').

| Term or abbreviation              | Description   |
|-----------------------------------|---|
| Acquirer<br>(acquiring PSP)       | <i>A payment service provider contracting with a payee to enable them to accept payment transactions made by means of any card, telecommunication, digital or IT device or software, and which result in a transfer of funds to the payee</i>   |
| AFR                               | Annual funding requirement  |
| AmEx                              | <i>The American Express IFR card payment system</i>   |
| ATM<br>(automated teller machine) | An electromechanical device that enables authorised users, typically using machine-readable plastic cards, to withdraw cash from their accounts and/or access other services (for example, to make balance enquiries, transfer funds or deposit money).   |
| ATM deployer                      | A company that owns and operates ATMs   |
| Bacs                              | <i>The Bacs regulated payment system designated by HM Treasury under section 43 of FSBRA</i><br><br>(The regulated payment system that processes payments through two principal electronic payment schemes: Direct Debit and Bacs Direct Credit. The payment system is operated by Bacs Payment Schemes Limited.) |
| C&C<br>(Cheque & Credit)          | <i>The Cheque &amp; Credit regulated payment system designated by HM Treasury under section 43 of FSBRA</i><br><br>(The regulated payment system in England, Scotland and Wales that processes cheques and other paper instruments. It is operated by Cheque and Credit Clearing Company Limited (C&CCC).)        |
| Card issuer<br>(card-issuing PSP) | <i>A payment service provider contracting with a payer to enable the latter to initiate a payment transaction, made by means of any card, telecommunication, digital or IT device or software</i>   |
| Card payment system               | <i>A regulated payment system that enables a holder of a payment card to effect a payment</i>   |

| Term or abbreviation   | Description  |
|--|--|
| CHAPS<br>(Clearing House Automated Payment System)   | <i>The CHAPS-regulated payment system designated by HM Treasury under section 43 of FSBRA</i><br><br>(The UK's real-time, high-value sterling regulated payment system, where payments are settled over the Bank of England's Real Time Gross Settlement system. It is operated by the Bank of England.)   |
| Collection<br>(PSR fee collection)   | The method through which PSR fees are collected  |
| Diners Club  | The Diners Club International IFR card payment system  |
| Direct access  | <p>(a) <i>Access to a regulated payment system to enable a payment service provider 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)</i></p> <p>(b) <i>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</i></p>  |
| Direct payment service provider<br>(also referred to as a 'direct member' of a regulated payment system) | <p>(a) <i>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, a direct payment service provider includes an acquirer and a card issuer, and does not include the Bank of England.</i></p> <p>(b) <i>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.</i></p> |
| FCA  | Financial Conduct Authority  |
| FEES 9   | <i>PSR fees rules included in the FCA Fees Manual (FEES) at FEES 9 (<a href="http://www.handbook.fca.org.uk/handbook/FEES/9">www.handbook.fca.org.uk/handbook/FEES/9</a>)</i>  |
| FPS<br>(Faster Payments Scheme)  | <i>The Faster Payments Scheme-regulated payment system designated by HM Treasury under section 43 of FSBRA</i><br><br>(The regulated payment system that provides near real-time payments as well as standing orders. It is operated by Faster Payments Scheme Limited.)   |
| FSBRA  | <i>Financial Services (Banking Reform) Act 2013</i>  |
| FSMA   | <i>Financial Services and Markets Act 2000</i>   |



| <b>Term or abbreviation</b>   | <b>Description</b>   |
|---|--|
| <b>IFR</b><br>(EU Interchange Fee Regulation)                           | <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, published in The Official Journal of the European Union on 19 May 2015</i>   |
| <b>IFR card payment system</b>  | <i>A payment card scheme as defined in the IFR, 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>  |
| <b>IFR transactions by acquirers operating in the United Kingdom</b>    | <i>All transactions subject to the IFR acquired by:</i><br><i>(a) UK-based acquirers (or an operator acting as acquirer) resulting in payments to merchants located in the UK, where the card issuer is located in the European Economic Area (EEA);</i><br><i>(b) UK-based acquirers (or an operator acting as an acquirer) resulting in payments to merchants located outside the UK, where the card issuer is located in the EEA; and</i><br><i>(c) non-UK-based acquirers (or an operator acting as an acquirer) resulting in payments to merchants located in the UK, where the card issuer is located in the EEA</i> |
| <b>IFR transactions by card issuers operating in the United Kingdom</b> | <i>All transactions subject to the IFR on cards issued by UK-based card issuers (or an operator acting as a card issuer), where the acquirer is located in the EEA</i>   |
| <b>Independent ATM deployer (IAD)</b>                                   | An ATM deployer that does not issue payment cards  |
| <b>Indirect access</b>  | Access to a regulated payment system through a contractual arrangement with a direct PSP to enable it to provide services (for the purposes of enabling the transfer of funds using that regulated payment system) to persons who are not participants in the system   |
| <b>'Indirect billing' approach</b>                                      | The approach to raising PSR fees whereby PSR fees are levied on direct members of Bacs, CHAPS, C&C, FPS, LINK or NICC, and on acquiring and issuing PSPs that are members of Mastercard or Visa, and which is proposed to be used for acquiring and issuing PSPs (and in some cases on operators) in IFR card payment systems. PSR fees are collected on behalf of the FCA and PSR by operators acting as collection agents (fee collection methodology). The operators also issue invoices for the PSR fees determined for individual direct members using the fee calculation methodology                                |
| <b>JCB</b>  | <i>The JCB International IFR card payment system</i>   |

| <b>Term or abbreviation</b>                            | <b>Description</b>   |
|--|--|
| <b>LINK</b>  | <p><i>The LINK regulated payment system designated by HM Treasury under section 43 of FSBRA</i></p> <p>(The regulated payment system that enables end users to take cash out of their accounts (among other activities) using the network of ATMs in the UK. It is operated by Link Scheme.)</p>                 |
| <b>Mastercard</b>                                      | <p><i>The Mastercard regulated payment system designated by HM Treasury under section 43 of FSBRA and the Mastercard IFR card payment system</i></p>   |
| <b>NICC<br/>(Northern Ireland<br/>Cheque Clearing)</b> | <p><i>The Northern Ireland Cheque Clearing-regulated payment system designated by HM Treasury under section 43 of FSBRA</i></p> <p>(The regulated payment system in Northern Ireland that processes cheques and other paper instruments. It is operated by the Belfast Bankers' Clearing Company Ltd.)</p>       |
| <b>Operator</b>  | <p><i>In relation to a payment system, any person with responsibility under a payment system for managing or operating it; any reference to the operation of a payment system includes a reference to its management. It does not include the Bank of England.</i></p>   |
| <b>Operator acting<br/>as a PSR fee payer</b>          | <p><i>An operator of a card payment system or an IFR card payment system acting as an acquirer, as a card issuer or as both an acquirer and card issuer in that payment system</i></p>   |
| <b>PAD<br/>(EU Payment<br/>Accounts Directive)</b>     | <p>Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, published in The Official Journal of the European Union on 28 August 2014</p>      |
| <b>Participants</b>                                    | <p>(a) In relation to a regulated payment system, any operator, payment service provider or infrastructure provider to a regulated payment system. See also section 42(2) FSBRA.</p> <p>(b) In relation to IFR card payment systems, any operator or payment system provider to that IFR payment card scheme</p> |
| <b>Payee</b>   | <p><i>A person who is the intended recipient of transferred funds</i></p>  |
| <b>Payer</b>   | <p><i>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</i></p>  |

| Term or abbreviation                               | Description   |
|--|---|
| Payment service provider (PSP)                     | <p>(a) Any person with access to a regulated payment system who provides services to consumers or businesses, who are not participants in the system, for the purposes of enabling the transfer of funds using that regulated payment system. For the purposes of FEES 9, the Bank of England is not considered a payment service provider.</p> <p>(b) Any person with access to an IFR card payment system who acts as an acquirer or a card issuer for the purposes of enabling the transfer of funds under the rules of that IFR card payment system</p> |
| Payment system                                     | A system that 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 that is designed to facilitate the transfer of funds using another payment system  |
| Payment transaction                                | An action of transferring funds, initiated by the payer or on their behalf or by the payee, irrespective of any underlying obligations between the payer and the payee  |
| PCIFRs   | The Payment Card Interchange Fees Regulations 2015 (SI 2015/1911)   |
| Person   | (In accordance with the Interpretation Act 1978) any person, including a body of persons corporate or unincorporate (that is, a natural person, a legal person and, for example, a partnership)   |
| 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   |
| PSD2   | Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, published in <i>The Official Journal of the European Union</i> on 23 December 2015   |
| PSP  | See payment service provider  |
| PSR  | The Payment Systems Regulator Limited, the body corporate established by the FCA under section 40(1) of FSBRA   |
| PSR fee (also referred to as 'PSR regulatory fee') | The fee payable by a PSR fee payer under FEES 9.2.1R  |
| PSR fee payer                                      | A direct payment service provider, or an operator acting as a PSR fee payer, eligible to pay a PSR fee in accordance with FEES 9.2.1R   |
| PSRs 2017  | Payment Services Regulations 2017   |

| Term or abbreviation                             | Description  |
|--|--|
| Regulated payment system                         | Any payment system designated by the Treasury in accordance with section 43 FSBRA. As of the date of publication, this includes Bacs, C&C, CHAPS, FPS, LINK, NICC, Mastercard and Visa   |
| Regulated person                                 | A person on whom an obligation, prohibition or restriction is imposed by any provision of the IFR, <b>including participants in IFR card payment systems</b>   |
| Relevant time period                             | For each payment system listed in column 1 of the table in FEES 9 Annex 1R, the time period or date specified for that payment system in column 3 of the table   |
| Service-user                                     | Those who use, or are likely to use, services provided by payment systems  |
| Transaction values                               | For each payment system listed in column 1 of the table in FEES 9 Annex 1R, the total value of the transfers of funds of the type specified in column 2 of the table undertaken by each PSR fee payer in the relevant time period  |
| Transaction volumes                              | For each payment system listed in column 1 of the table in FEES 9 Annex 1R, the total number of transfers of funds of the type specified in column 2 of the table undertaken by each PSR fee payer in the relevant time period   |
| Transactions by acquirers operating in the UK    | <p>All transactions acquired by:</p> <p>(a) (UK-based acquirers (or an operator acting as such an acquirer) resulting in payments to merchants located in the UK</p> <p>(b) UK-based acquirers (or an operator acting as such an acquirer) resulting in payments to merchants located outside the UK and</p> <p>(c) non-UK-based acquirers (or an operator acting as such acquirer) resulting in payments to merchants located in the UK</p> |
| Transactions by card issuers operating in the UK | All transactions on cards issued by UK-based card issuers (or an operator acting as such a card issuer)  |
| (the) Treasury                                   | Her Majesty's Treasury   |
| Visa (Visa Europe)                               | <p>The Visa Europe-regulated payment system designated by HM Treasury under section 43 of FSBRA and the Visa Europe IFR card payment system</p> <p>(The regulated payment system supporting payments made by cards and operated by Visa Europe and Visa UK Limited)</p>  |
| Working days                                     | Any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day that is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the UK  |

