

**[Legal entity]**  
**[Address]**  
**cc company secretary**

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

BY EMAIL

18 January 2018

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

Dear [name of contact],

## **Interchange Fee Regulation**

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

The Payment Systems Regulator Limited ('PSR') is responsible for monitoring compliance with the EU Interchange Fee Regulation ('IFR') in the United Kingdom and taking enforcement action where appropriate. We require information in relation to regulated parties' compliance with Articles 3 and 4 of the IFR. We also plan to collect information from you in relation to regulated parties' compliance with Article 5 IFR.

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

The content of Annex A of this Notice was shared with you in draft form for comment on 1 December 2017. Since then, we have subsequently made the following changes to Annex A:

- We have clarified how you should provide information on issuers that belong to the same corporate group.
- We have clarified the definitions of *relevant acquirers* in Parts 1 and 2 of the Notice by adding that the cards used for the relevant card transactions should be those issued to consumers (as defined in Article 2(3) IFR).
- We have asked for the information provided to be broken down by domestic and cross-border transactions as defined in the IFR.

### **Responding to the Notice**

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

The Notice requires you to supply the information described in Annex of the Notice by email to [named PSR contact] by 5pm on 15 March 2018. Please provide the information by email to [cards@psr.org.uk](mailto:cards@psr.org.uk).

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

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

Yours sincerely,

[Named PSR manager]

### **Policy Manager**



### **Payment Systems Regulator**

25 The North Colonnade  
Canary Wharf, London E14 5HS

**Notice of requirements to provide information**

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

**Interchange Fee Regulation**

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

1. [Legal entity] is required to supply the information described in the attached Annex in accordance with this Notice.
2. The required information must be provided in electronic format and, to the fullest extent possible, in searchable Word/Excel/Power Point documents.
3. The required information must be provided to the PSR by e-mail to [cards@psr.org.uk](mailto:cards@psr.org.uk) by 5 p.m. on 15 March 2018.

Signed..... Policy Manager on behalf of the PSR

Name [Named PSR manager]

Date.....

**Penal Notice**

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

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

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

## **ANNEX A – INFORMATION TO BE PROVIDED**

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

- Part 1 of the Notice requires information on gross interchange fees received by issuers and paid by acquirers on consumer debit card transactions from 9 December 2015 to 31 December 2017.
- Part 2 of the Notice requires information on gross interchange fees received by issuers and paid by acquirers on consumer credit card transactions from 9 December 2015 to 31 December 2017.

The information submitted in response to the questions in this Notice will be used to inform our work to monitor compliance with the interchange caps in Articles 3 and 4 IFR.

All terms in this Notice have the meaning set out in the IFR unless indicated otherwise. The definitions used in the IFR and referred to in this Notice should be read alongside the "Guidance on the PSR's approach as a competent authority for the EU Interchange Fee Regulation", October 2016.<sup>1</sup>

### **Part 1: Information on gross interchange fees paid/received on consumer debit card transactions from 9 December 2015 to 31 December 2017**

#### *Definitions*

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

- a card-based payment transaction (as defined in Article 2(7) IFR);
- carried out under the [company] payment card scheme (as defined in Article 2(16) IFR);
- involving a debit card (as defined in Article 2(33) IFR) or a prepaid card (as defined in Article 2(35) IFR);
- issued to a consumer (as defined in Article 2(3) IFR).

#### *Instructions*

When providing the sterling value of transactions and interchange fees paid/received in questions 1-4 below, please provide the information broken down by all the different interchange fee rates that applied. For example, if you applied an interchange fee rate to a subset of the *relevant debit card transactions* under the

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<sup>1</sup> <https://www.psr.org.uk/sites/default/files/media/PDF/PSR-IFR-Guidance-Phase-2.pdf>

[company] scheme lower than 0.2% and a 0.2% interchange fee rate for other *relevant debit card transactions*, please provide the information requested in questions 1-4 for the different interchange fee rates separately.

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

For all of questions 1-4 below, please provide the gross value of the interchange fees received or paid. In respect of issuers, please do not include any other payments made to the issuer by the acquirer or by [company], or deduct any payments made from the issuer to the acquirer or to [company]. Similarly, in respect of acquirers, please do not include any other payments made by the acquirer to the issuer or to [company], or deduct any payments received by the acquirer from the issuer or [company].

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

- The *relevant issuers* are [X]
- The *relevant acquirers* are [X]

[X] please consolidate issuers that are part of the same corporate group by summing their *relevant debit card transactions*. You should specify which issuers you have consolidated as part of a corporate group in your response.

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

- In the event that a corporate group acquires an issuer, that issuer's *relevant debit card transactions* should be included within the corporate group's *relevant debit card transactions* from the first complete month following the official date the acquisition was completed. For example, if a corporate group acquired an issuer on 2 August 2017, that issuer's *relevant debit card transactions* would be included in the corporate group's *relevant debit card transactions* from 1 September 2017 onwards.
- In the event that an issuer that is not part of a corporate group acquires or merges with another issuer to create a new corporate group, the *relevant debit card transactions* of both issuers should be summed from the first complete month following the official date the acquisition or merger was completed. For example, if an issuer acquired or merged with another issuer to create a new

corporate group on 10 September 2017, the *relevant debit card transactions* of both issuers should be summed from 1 October 2017 onwards.

- In the event that an issuer leaves a corporate group, that issuer's *relevant debit card transactions* should not be included in the corporate group's *relevant debit card transactions* from the first complete month following the separation. For example, if an issuer left a corporate group on 15 October 2017, that issuer's *relevant debit card transactions* should not be included in the corporate group's *relevant debit card transactions* from 1 November 2017 onwards.

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

### **Question 1**

Please provide the sterling value of all *relevant debit card transactions* from 9 December 2015 until 31 December 2017 for the *relevant issuers* where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by issuer and by the interchange fee rate that applied.

### **Question 2**

Please provide the sterling value of interchange fees received by the *relevant issuers* on *relevant debit card transactions* from 9 December 2015 until 31 December 2017 where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by issuer and by the interchange fee rate that applied.

**Question 3**

Please provide the sterling value of all *relevant debit card transactions* from 9 December 2015 until 31 December 2017 for the *relevant acquirers* where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer and by the interchange fee rate that applied.

**Question 4**

Please provide the sterling value of interchange fees paid by the *relevant acquirers* on *relevant debit card transactions* from 9 December 2015 until 31 December 2017 where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer and by the interchange fee rate that applied.

**Part 2: Information on gross interchange fees paid/received on consumer credit card transactions from 9 December 2015 to 31 December 2017***Definitions*

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

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

### *Instructions*

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

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

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

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

- The *relevant issuers* are [X]
- The *relevant acquirers* are [X]

[X] please consolidate issuers that are part of the same corporate group by summing their *relevant credit card transactions*. You should specify which issuers you have consolidated as part of a corporate group in your response.

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

- In the event that a corporate group acquires an issuer, that issuer's *relevant credit card transactions* should be included within the corporate group's *relevant credit card transactions* from the first complete month following the official date the acquisition was completed. For example, if a corporate group acquired an issuer on 2 August 2017, that issuer's *relevant credit card transactions* would be included in the corporate group's *relevant credit card transactions* from 1 September 2017 onwards.



- In the event that an issuer that is not part of a corporate group acquires or merges with another issuer to create a new corporate group, the *relevant credit card transactions* of both issuers should be summed from the first complete month following the official date the acquisition or merger was completed. For example, if an issuer acquired or merged with another issuer to create a new corporate group on 10 September 2017, the *relevant credit card transactions* of both issuers should be summed from 1 October 2017 onwards.
- In the event that an issuer leaves a corporate group, that issuer's *relevant credit card transactions* should not be included in the corporate group's *relevant credit card transactions* from the first complete month following the separation. For example, if an issuer left a corporate group on 15 October 2017, that issuer's *relevant credit card transactions* should not be included in the corporate group's *relevant credit card transactions* from 1 November 2017 onwards.

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

#### **Question 5**

Please provide the sterling value of all *relevant credit card transactions* from 9 December 2015 until 31 December 2017 for the *relevant issuers* where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by issuer and by the interchange fee rate that applied.

**Question 6**

Please provide the sterling value of interchange fees received by the *relevant issuers* on *relevant credit card transactions* from 9 December 2015 until 31 December 2017 where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by issuer and by the interchange fee rate that applied.

**Question 7**

Please provide the sterling value of all *relevant credit card transactions* from 9 December 2015 until 31 December 2017 for the *relevant acquirers* where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer and by the interchange fee rate that applied.

**Question 8**

Please provide the sterling value of interchange fees paid by the *relevant acquirers* on *relevant credit card transactions* from 9 December 2015 until 31 December 2017 where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer and by the interchange fee rate that applied.

## **Explanatory Notes**

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

### **Enforcement and offences**

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

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

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

### **False or misleading submissions**

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

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

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

### **Confidentiality and treatment of information**

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

Providers of information should note that we will treat information received in accordance with our statutory framework (sections 91-93 FSBRA<sup>2</sup>). Therefore, we will not disclose confidential information that relates to the business or affairs of any person, which we receive for the purposes of our functions under FSBRA, unless:

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

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

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

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

### **Interchange Fee Regulation**

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

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

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

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