

Consultation paper

# Card-acquiring market remedies: change to list of directed legal entities

Consultation on proposed  
revisions to Specific Directions  
14, 15 and 16

January 2024

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We welcome your views on our proposed revisions to our CAMR remedies directions. If you would like to provide comments, please send these to us by **5pm on 9 February 2024**.

You can email your comments to [camr-compliance@psr.org.uk](mailto:camr-compliance@psr.org.uk) or write to us at:

CAMR Change of Legal Entities  
Supervision and Compliance Monitoring  
Payment Systems Regulator  
12 Endeavour Square  
London E20 1JN

We will consider your comments when preparing our response to this consultation.

We will make all non-confidential responses to this consultation available for public inspection.

We will not regard a standard confidentiality statement in an email message as a request for non-disclosure. If you want to claim commercial confidentiality over specific items in your response, you must identify those specific items which you claim to be commercially confidential. We may nonetheless be required to disclose all responses which include information marked as confidential in order to meet legal obligations, in particular if we are asked to disclose a confidential response under the Freedom of Information Act 2000. We will endeavour to consult you if we receive such a request. Any decision we make not to disclose a response can be reviewed by the Information Commissioner and the Information Rights Tribunal.

You can download this consultation paper from our website:

**[www.psr.org.uk/cp24-1-card-acquiring-market-remedies/](http://www.psr.org.uk/cp24-1-card-acquiring-market-remedies/)**

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# 1 Executive summary

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In this consultation paper, we propose to amend our Specific Directions 14–16 ('the directions'), which relate to the supply of card-acquiring services, under the Financial Services (Banking Reform) Act 2013 (FSBRA). The directions were first issued on 6 October 2022. Specific Direction 16 came into force on 6 January 2023 and Specific Directions 14 and 15 came into force on 6 July 2023.

We present for consultation revised versions of the directions.

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## Introduction

- 1.1** We are consulting on our proposal to revise our Specific Directions 14, 15 and 16.
- 1.2** We propose to update the list of directed legal entities and amend the method we use to update changes to it in future. We also propose to add Checkout Ltd to the list of directed parties under the directions.
- 1.3** This document is intended to give a high-level overview of the changes we propose to make. It is important that stakeholders read the varying draft direction and the directions that are being amended.

## Background

- 1.4** We published our final report on the card-acquiring market review in November 2021, which concluded that the supply of card-acquiring services was not working well for small and medium-sized merchants and large merchants with an annual card turnover of up to £50 million.
- 1.5** Between January and April 2022, we consulted on our initial set of remedies to address the features of the market that we identified as barriers to merchants identifying and switching to a better card-acquiring deal in the UK.
- 1.6** Between June and August 2022, we then consulted on our provisional decision.
- 1.7** We published our final decision and the directions on 6 October 2022.
- 1.8** Specific Direction 16, which limited the length of initial terms for point-of-sale (POS) terminal contracts, came into force on 6 January 2023.
- 1.9** Specific Directions 14 and 15 both came into force on 6 July 2023. Specific Direction 14 requires the provision of a 'summary box' offering billing information and an online quotation tool. Specific Direction 15 requires directed providers to provide 'trigger messages' to merchants, prompting them to consider shopping around.

## Reasons for revising the directions

**1.10** We are revising the directions for three reasons:

1. Several directed providers have notified us of changes to the legal entities that supply services to UK customers.<sup>1</sup>
2. We want to introduce a more efficient mechanism to capture any future changes to the legal entities servicing UK customers listed in the directions.
3. We obtained market evidence that Checkout Ltd, based on its share of card transactions acquired at UK outlets, now falls within the set of most significant providers of card-acquiring services.

**1.11** We consider the above three reasons in greater detail in Chapter 3.<sup>2</sup>

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1 In the case of Square UK we are correcting the name of the entity we directed from Square UK to Squareup Europe Ltd.

2 We also take the opportunity to correct obvious errors in Specific Direction 14 and 15.

## 2 Introduction

**2.1** The PSR is the economic regulator for the payment systems industry in the UK. We were established under the Financial Services (Banking Reform) Act 2013 (FSBRA) and launched in April 2015. FSBRA gives us statutory objectives (the ‘payment system objectives’) that require us to:

- ensure that payment systems are operated and developed in a way that considers and promotes the interests of service users (the businesses and consumers that use services provided by payment systems)
- promote effective competition in the markets for payment systems and services in the interests of service users – in particular, between payment system operators, payment service providers and payment system infrastructure providers
- promote the development of and innovation in payment systems, particularly the infrastructure used to operate those systems, in the interests of service users<sup>3</sup>

**2.2** The aim of our market review was to consider whether the supply of card-acquiring services was working well for merchants, and ultimately for consumers. We heard concerns that providers might not be passing on savings they made from the interchange fee caps introduced by the Interchange Fee Regulation (IFR). There were also concerns about a lack of transparency around the fees merchants pay to accept card payments, and about merchants’ difficulties in comparing and switching providers. We published our [final report](#) on our findings in November 2021.

**2.3** In January 2022, we [consulted](#) on a package of remedies to help merchants get the best deal possible. We [published](#) a provisional decision on these remedies in June 2022. In October 2022, we published our [final decision](#) confirming the changes we are making to improve card services and choice for businesses, and Specific Directions 14, 15 and 16 directed to 14 providers.

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3 FSBRA, sections 50 to 52

# 3 Reasons for and aims of revising the directions

This chapter explains our aims when revising the directions, outlines the reasons behind the changes we propose and highlights the key changes.

## Change to legal entities listed in the directions

- 3.1** Since our final decision<sup>4</sup> and the directions were published in October 2022, some directed providers that previously operated from an EU member state under the temporary permissions regime have now transferred responsibility to a UK registered company.
- 3.2** In other cases, we have been notified by certain directed parties that the relevant legal entity within their group has changed for reasons such as company restructuring, or simply that the details listed for them were incorrect.
- 3.3** The proposed changes to the current list of directed legal entities are summarised in Table 1 below:

**Table 1: Proposed changes to the current list of directed payment service providers (PSPs) under Specific Directions 14-16**

<b>Directed PSPs to be amended as a result of change to business entity under Specific Directions 14–16</b>	<b>PSPs to be included under Specific Directions 14–16</b>
Adyen UK Limited	Adyen N.V.
Chase Paymentech Europe Limited	Chase Paymentech Europe Limited JPMorgan Chase Bank, National Association
EVO Payments International GmbH, Branch UK	EVO Payments UK Ltd
First Merchant Processing (Ireland) DAC	First Merchant Processing (UK) Limited
PayPal (Europe) Sarl et Cie SCA	PayPal UK Ltd
Square UK	Squareup Europe Ltd

4 Card-acquiring market review remedies: Final Decision, October 2022

## Proposed variation to updating legal entities in Specific Directions 14–16 in the future

- 3.4** In the draft direction we are consulting on, we are proposing to introduce into Specific Directions 14, 15 and 16 a new mechanism so that a person to which relevant business is transferred by a directed PSP will automatically become a directed PSP itself. ‘Relevant business’ will be defined in the directions as ‘activity in respect of which Section 3 of this direction imposes obligations’. That refers to the business that caused the PSP from which relevant business is being transferred to be directed. We refer to Section 3 specifically because it is the obligations in that section in each direction that are the substantive obligations of the directions (i.e. the remedy for the problems identified in the card-acquiring market review). There are other obligations under those directions, consequential on being a directed party, such as for a directed party to provide a report about its compliance with the direction to the PSR. These consequential obligations are not relevant to triggering the new mechanism (though a PSP that remains or becomes a directed party by virtue of the new mechanism would be subject to them).
- 3.5** The default position under this new mechanism will be that the PSP to which the business is transferred (the transferee) is, from the date of transfer, a directed PSP, while the PSP from which the relevant business is transferred (the transferor) will remain directed. ‘Transfer’ means the passing of the relevant business from the transferor to another legal entity whether or not that legal entity is in the same group as the transferor.
- 3.6** That default position may not apply in relation to particular transfers. In the case of a transferor, it will not apply if we are satisfied that the transferor is no longer a PSP in the Visa and Mastercard payment systems and gives a notice to the transferor stating this. This reflects the regulatory position that a person cannot be subject to a section 54 FSBRA direction where they are not a participant in the regulated payment systems to which a direction relates.
- 3.7** The default position will also not apply to the transferor where we decide that it should not and notify the transferor to that effect. Similarly, it will also not apply to the transferee where we decide that it should not and notify the transferee to that effect. It should be noted that we may come to a different decision about a transferor as compared to a transferee in relation to the same transfer and, where there is more than one transferee, we will make individual decisions so the outcome may be different for different transferees.
- 3.8** The provisions introducing the new mechanism also impose requirements on the transferor to provide advance notice of the transfer to us and require both the transferor and transferee to confirm to us that the transfer has happened. This is for monitoring purposes and to ensure that we are able to make our decision on whether to override the default position in good time and with sufficient information.
- 3.9** This new mechanism will apply in all situations where relevant business is transferred. That could be where there is a restructure within an associated group of entities, but it could also be where the transfer is to a separate entity (and whether or not the transferor is compensated for making the transfer).



- 3.10** This mechanism will remove uncertainty and ensure legal continuity because it will be clear what happens in respect of the obligations of the directions both to the transferor and the transferee. Our ability to override the default position provides a proportionate way to ensure that obligations are not maintained inappropriately or unnecessarily.
- 3.11** This mechanism will avoid the need to update the list of directed parties in Specific Directions 14, 15 and 16 simply because there has been a transfer. This promotes efficiency and increases transparency because whether the transferor and transferee remain directed is determined under that mechanism rather than by us deciding to give a new direction. We will also maintain a schedule of directed PSPs subject to Specific Directions 14, 15 and 16, which will be made available on our website.
- 3.12** The new Specific Direction 14/15/16a varying the existing directions is set out in Annex 1.

## The inclusion of Checkout Ltd

- 3.13** We issued the directions to the 14 most significant providers of card-acquiring services, which meant that around 95% of transactions were accounted for.<sup>5</sup> The 14 providers were:
- Adyen UK Limited
  - Barclays Bank PLC
  - Chase Paymentech Europe Limited
  - Elavon Financial Services DAC
  - EVO Payments International GmbH, Branch UK
  - First Data Europe Limited
  - First Merchant Processing (Ireland) DAC
  - GPUK LLP
  - Lloyds Bank plc
  - PayPal (Europe) Sarl et Cie SCA
  - Square UK (to be referred to in the directions following variation as Squareup Europe Ltd)
  - Stripe Payments UK Ltd
  - SumUp Payments Limited
  - Worldpay (UK) Limited
- 3.14** We believed that giving specific directions to these providers was the most proportionate and targeted approach to our remedies and that it would address the harms we identified in an effective and timely manner.
- 3.15** The methodology used to identify the 14 original directed providers used data on volume of transactions, value of transactions, and number of merchants supplied.

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<sup>5</sup> Based on card transactions acquired at UK outlets by volume (that is, number) and value of transactions.

- 3.16** In our final decision, we concluded that the three remedies would be effective and proportionate, individually and in combination, to address the features of concern we identified in the card-acquiring market review. Specifically, we introduced:
- **Summary boxes containing bespoke key price and non-price information:** Card-acquiring service providers must send these individually to each merchant and make them available in their online account. Merchants will be able to use the summary boxes alongside new online quotation tools, which providers will also be required to make available. This will help merchants compare all available offerings.
  - **Trigger messages prompting merchants to shop around, renegotiate their contract or switch provider:** Providers of card-acquiring services must send these to their merchant customers and display them prominently in their online account.
  - **Contractual limits:** A maximum initial term of 18 months on POS terminal lease and rental contracts, followed by a maximum monthly renewal thereafter.
- 3.17** We implemented the remedies by issuing Specific Directions 14, 15 and 16 to the most significant providers of card-acquiring services to the merchants we are seeking to protect. The directed providers are listed in the directions, and at paragraph 2.17 of our final decision.
- 3.18** All of the directions apply to the directed providers and the independent sales organisations (ISOs) they contract with to provide services to merchants. However, elements of the package of remedies may not apply at all times to all directed parties, for example if a provider does not (at that point in time) rent or lease POS terminals to their merchant customers, Specific Direction 16 would not apply.
- 3.19** In our final decision we stated that we would keep the list of directed companies under review, and could extend the mandate if necessary by directing Mastercard and Visa to require all acquirers who are members of their schemes to adopt the remedies.
- 3.20** We have obtained market evidence that based on its share of card transactions acquired at UK outlets, Checkout Ltd has a market share at least as large as the smallest currently directed acquirer. We base this conclusion on:
- the value of Mastercard and Visa card transactions for the full calendar year of 2021
  - the value and volume of Mastercard card transactions during January to August 2022 and Visa transactions during January to September 2022
- 3.21** Data on card transactions was split by acquirer, although we understand it also attributed transactions to acquirers that involved a payment facilitator. We note, however, that in terms of the value of transactions, Checkout Ltd fell within the set of most significant acquirers by a considerable margin. Therefore, we consider it unlikely that Checkout Ltd would have been outside this set if the acquirer data had excluded transactions involving payment facilitators.

**3.22** In October 2022, we mandated all three directions on the original list of directed providers. Similarly, we propose to apply all three directions to Checkout Ltd. In our final decision we explained that the directions would work effectively and proportionately, whether individually or in combination. However, Specific Direction 16<sup>6</sup> only applies in relation to contracts for the provision of POS terminals to merchants with an annual card turnover of up to £10 million that make use of card-acquiring services operated or provided by a directed provider. Where a directed provider (or its contracted agents) does not lease or rent POS terminals to merchant customers, the provisions of Specific Direction 16 would not apply.

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6 Specific Direction 16, paragraph 3.3

# 4 Next steps and consultation questions

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This section sets out the next steps for our revision of the directions, including guidance on who can respond to our consultation, the recommended format for responses, and how and when to submit them.

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- 4.1** We are consulting on the proposed content of the revised versions of Specific Directions 14, 15, and 16, which will be introduced by the draft direction in Annex 1. We are asking for comments on the proposals by 5pm on 9 February 2024.
- 4.2** You can send your comments and responses to our consultation questions by emailing us at [camr-compliancemonitoring@psr.org.uk](mailto:camr-compliancemonitoring@psr.org.uk). We would be grateful if you could provide your response in a Word document (rather than, or as well as, a PDF).
- 4.3** We welcome comments from all stakeholders and interested parties, not only entities that we regulate. During our consultation we will engage with stakeholders to obtain as wide a variety of views as possible on our revised directions.
- 4.4** Following consultation and our assessment of the responses received, we expect to make final decisions in spring 2024. Subject to the consultation, we aim to publish our finalised, updated version of the direction in Annex 1 shortly thereafter.
- 4.5** We will make all non-confidential responses to this consultation available for public inspection.

## Consultation questions

- 1. Do you have any comments on the amending direction in Annex 1, including the proposed updates to the lists of directed PSPs?**
- 2. Do you agree with the new proposed mechanism for ensuring continuity of obligations in the event of a transfer of a relevant business, and consequent to this, updating the list of PSPs subject to Specific Directions 14, 15 and 16? Do you have any comments on how we propose it should work? Do you have any comments on the meaning or application of the term 'transfer', and the clarity of the trigger event which would result in the requirement for notification to be made to the PSR?**
- 3. Do you have any comments on our proposal to direct Checkout Ltd?**

# Annex 1

## DRAFT amending direction

# DRAFT Specific Direction 14/15/16a

Specific Direction 14/15/16a  
varying Specific Directions 14, 15 and 16  
(card-acquiring services)

[Month] 2024

# DRAFT Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services)

## 1 Recitals

### Whereas:

- 1.1 The list of directed PSPs<sup>1</sup> in Specific Directions 14, 15 and 16 requires updating, including to reflect transfers of business.
- 1.2 There should be a process for a payment service provider to which relevant business is transferred to become automatically a directed PSP. This will remove uncertainty and ensure continuity (while avoiding the need for a direction to be given to achieve the same outcome).
- 1.3 The Payment Systems Regulator, following consultation, considers that Checkout Ltd, by virtue of its share of card transactions, should be made subject to the obligations set out in Specific Directions 14, 15 and 16.

## 2 Powers exercised and purpose

- 2.1 Visa Europe and Mastercard are payment systems designated by the Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 (the Act) for the purposes of Part 5 of the Act.
- 2.2 The Payment Systems Regulator makes this direction in accordance with sections 54(1) and (3) (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to specified persons and persons of a specific description.
- 2.3 In making its decision to use its section 54 powers, the Payment Systems Regulator had regard to section 62(2)(a) (Duty to consider exercise of powers under the Competition Act 1998) of the Act.
- 2.4 This direction is given to vary Specific Directions 14, 15 and 16 for the purposes described in the additional recitals inserted into those directions by Section 3 of this direction.

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1 For the definition of 'directed PSPs' see the 'Key Definitions' section (Section 4) in each of Specific Directions 14, 15 and 16.

# Direction

**NOW the Payment Systems Regulator gives the following direction to the payment service providers referred to` in paragraph 8.1:**

## 3 Additional recitals

**3.1** In each of Specific Directions 14, 15 and 16, at the end of Section 1 (recitals), insert (using the appropriate paragraph number):

'This direction was varied by Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) to update the list of directed PSPs, to introduce a mechanism for obligations to be placed on PSPs taking on relevant business and to add Checkout Ltd to the list of directed PSPs (and make provision about when Checkout Ltd will be subject to the obligations of the direction).'

## 4 Change to lists of directed PSPs

**4.1** In each of Specific Directions 14, 15 and 16, in the list of directed PSPs, omit:

**Adyen UK Limited**

**EVO Payments International GmbH, Branch UK**

**First Merchant Processing (Ireland) DAC**

**PayPal (Europe) Sarl et Cie SCA**

**Square UK**

**4.2** In each of Specific Directions 14, 15 and 16, in the list of directed PSPs, insert at the appropriate place (determined alphabetically):

**Adyen N.V.**

**Checkout Ltd**

**EVO Payments UK Ltd**

**First Merchant Processing (UK) Limited**

**JPMorgan Chase Bank, National Association**

**PayPal UK Ltd**

**Squareup Europe Ltd**

(and in consequence of this paragraph and paragraph 4.1, in paragraph 3.1 of each of Specific Directions 14, 15 and 16, for '14', substitute '16')



## 5 Transfer of relevant business

5.1 In Section 6 of each of Specific Directions 14, 15 and 16, after paragraph 6.1, insert:

- 6.2** Subject to paragraph 6.11, where a directed PSP ('the transferor') transfers relevant business to another person, that person ('the transferee') is, from the date of transfer, a directed PSP.
- 6.3** This applies whether or not the transfer is to a group undertaking (which has the same meaning as in section 1161(5) of the Companies Act 2006).
- 6.4** Subject to paragraphs 6.10 and 6.11, despite the transfer, the transferor remains a directed PSP.
- 6.5** The transferor must give advance notice in writing to the PSR of the proposed transfer. That notice must include the anticipated date of the transfer, the name of the proposed transferee and their contact details, confirmation of whether or not the transferee is a group undertaking, the transferor's submission on whether paragraph 6.10 will apply and a description of the relevant business being transferred. The PSR may require further information to be provided about the transfer (this is without prejudice to any other power the PSR has to require information to be provided).
- 6.6** The notification must be given by the transferor as soon as reasonably practicable after a date for transfer has been set, and in any event no later than 28 days before the date of the anticipated transfer.
- 6.7** If, following the notification, there is a material change to the matters set out in the notice (for example that the transfer is no longer happening or it is to happen on a different date), the transferor must notify the PSR in writing of the change as soon as reasonably practicable.
- 6.8** Immediately following the transfer, the transferor and the transferee must notify the PSR in writing that the transfer has been completed. That notification may be given jointly or individually.
- 6.9** Where the transfer of relevant business is to more than one person, each person to which relevant business is transferred is a transferee for the purposes of this direction and consequently the PSR will assess each transferee separately for the purposes of paragraph 6.11.
- 6.10** Where the PSR is satisfied that, by virtue of the transfer, the transferor is no longer a PSP in a relevant regulated payment system (those systems being the Visa Europe and Mastercard payment systems), it will give notice in writing to the transferor that it is no longer a directed PSP.

**6.11** The PSR may decide that a transferee or a transferor is not, despite paragraph 6.2 or 6.4, to be, or remain, a directed PSP. If it does so, it will provide a written notice to the transferee or transferor (as appropriate) setting out that decision and, in doing so, specifying when its decision will come into effect (which may be on a specified date or by reference to an event (such as the transfer)). The decision may be stated to be contingent on the transfer happening (including happening in a particular way or in relation to particular relevant business). The PSR's notice may be given at any time after the notification mentioned in paragraph 6.5 has been given to the PSR, including after the transfer has taken place.

**6.12** The PSR shall maintain a schedule of directed PSPs on its website.'

**5.2** In consequence of the variation made by paragraph 5.1, at the end of Section 4 of each of Specific Directions 14, 15 and 16, insert (using the appropriate paragraph number):

'**Relevant business** means activity in respect of which Section 3 of this direction imposes obligations.'

## 6 Date of application to Checkout Ltd

**6.1** In Specific Directions 14 and 15, after paragraph 7.1 insert

'**7.1a** The obligations in this direction only apply to Checkout Ltd on and after [nine months after Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) comes into force].'

**6.2** In Specific Direction 16, after paragraph 7.1 insert:

'**7.1a** The obligations in this direction only apply to Checkout Ltd on and after [three months after Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) comes into force].'

## 7 Correcting obvious errors

**7.1** In paragraph 3.24 of Specific Direction 14, omit 'fashion'.

**7.2** In Specific Direction 15

in paragraph 3.10, for 'paragraph 3.10', substitute 'paragraph 3.9'

in paragraph 3.11, for 'paragraph 3.12(a) or (b)', substitute 'paragraph 3.11(a) or (b)'

in paragraph 4.9, for 'X1', substitute '14'

## 8 Application

- 8.1 This specific direction applies to any payment service provider that is a directed PSP within the meaning of Specific Directions 14, 15 or 16 (as varied by this direction).

## 9 Commencement and duration

- 9.1 This direction comes into force on [DATE].

## 10 Citation

- 10.1 This direction may be cited as Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services).

## 11 Interpretation

- 11.1 The headings and titles used in this direction are for convenience and have no legal effect.
- 11.2 The Interpretation Act 1978 applies to this direction as if it were an Act of Parliament, except where words and expressions are expressly defined.
- 11.3 References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.
- 11.4 In this direction, the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word 'include' and its derivatives shall be construed accordingly.

**Made on [DATE]**

**Chris Hemsley**  
Managing Director  
Payment Systems Regulator

# Annex 2

## DRAFT consolidated Specific Directions 14, 15 and 16

These consolidated directions show the change we propose to make to the existing directions. Additions are in green and underlined. ~~Deleted text is set in red and shown struck through.~~

Specific Direction 14 requiring providers of card-acquiring services to provide information to merchants

Specific Direction 14 (card-acquiring – provision of information (summary box))

October 2022

(varied by Specific Direction 14/15/16a)

Consolidated version

# Specific Direction 14

## (card-acquiring – provision of information (summary box))

### 1 Recitals

#### Whereas:

- 1.1** The PSR launched its card-acquiring market review in 2018 due to concerns that card-acquiring services may not offer value for money for merchants. It published the final report on 3 November 2021. It concluded that the supply of card-acquiring services does not work well for small and medium-sized merchants and large merchants with annual card turnover up to £50 million.
- 1.2** In the final report, the PSR identified three features that, individually and in combination, restrict merchants' willingness and ability to search and switch between card-acquiring providers.
- 1.3** The PSR wants to remedy these features to improve outcomes for merchants. It aims to do this by:
- a. encouraging them to search and switch, or negotiate with their existing provider
  - b. reducing the obstacles to switching
  - c. subsequently creating incentives for suppliers of card-acquiring services to develop and offer better deals for merchants through competitive pressure as merchants become more engaged and shop around more actively with better information
- 1.4** This specific direction is intended to remedy the feature of concern that acquirers and independent sales organisations (ISOs) do not typically publish their prices for card-acquiring services.
- 1.5** This specific direction is intended to achieve greater transparency and comprehensibility for merchants by helping them to understand the pricing elements of any service they use and compare prices more easily.
- 1.6** This direction is addressed to ~~14~~<sup>16</sup> specified payment service providers (PSPs).

1.7 This direction was varied by Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) to update the list of directed PSPs, to introduce a mechanism for obligations to be placed on PSPs taking on relevant business and to add Checkout Ltd to the list of directed PSPs (and make provision about when Checkout Ltd will be subject to the obligations of the direction).

## 2 Powers exercised and purpose

- 2.1** Visa Europe and Mastercard are payment systems designated by the Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 (the Act) for the purposes of Part 5 of the Act.
- 2.2** The PSR makes this direction in accordance with sections 54(1) and (3) (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to specified persons, all of which are participants in the Visa Europe and Mastercard regulated payment systems.
- 2.3** In making its decision to use its section 54 powers, the PSR had regard to section 62(2)(a) (Duty to consider exercise of powers under the Competition Act 1998) of the Act.
- 2.4** The purpose of this direction is to require directed PSPs to provide information to merchants in the form of a bespoke summary box setting out key price and non-price service elements of card-acquiring services. This direction also requires directed PSPs to provide information to prospective customers through an online quotation tool that generates indicative key price and non-price information and to ensure that any ISOs offering card-acquiring services provided by the directed PSPs provide the same.

# Direction

NOW the PSR gives the following specific direction to:

~~Adyen UK Limited~~

Adyen N.V.

Barclays Bank PLC

Chase Paymentech Europe Limited

Checkout Ltd

Elavon Financial Services DAC

~~EVO Payments International GmbH, Branch UK~~

EVO Payments UK Ltd

First Data Europe Limited

~~First Merchant Processing (Ireland) DAC~~

First Merchant Processing (UK) Limited

GPUK LLP

JPMorgan Chase Bank, National Association

Lloyds Bank plc

~~PayPal (Europe) Sarl et Cie SCA~~

PayPal UK Ltd

~~Square UK~~

Squareup Europe Ltd

Stripe Payments UK Ltd

SumUp Payments Limited

Worldpay (UK) Limited

## 3 General provisions

### Scope of this direction

- 3.1 This direction applies to the ~~14~~16 directed PSPs named above.
- 3.2 This direction applies in relation to participation in the Visa Europe and Mastercard regulated payment systems.



- 3.3** A relevant merchant is any merchant with an annual card turnover of up to £50 million.
- 3.4** Paragraphs 3.5 to 3.12 of this direction apply in relation to any relevant merchant with a contract for card-acquiring services with a directed PSP.

### Requirements for providing information – summary box

- 3.5** A directed PSP must provide information to relevant merchants in the form of a bespoke summary box.
- 3.6** The bespoke summary box must include the information which is published on the PSR's website from time to time under the title 'Summary box template'.
- 3.7** The information must be provided in the form published on the PSR's website from time to time under the title 'Summary box template'.
- 3.8** The PSR may amend the information to be included under paragraph 3.6 or the form to be used under paragraph 3.7, and will provide reasonable notice of any such change.
- 3.9** A directed PSP may provide additional information to merchants but it must do this separately from the bespoke summary box.
- 3.10** The bespoke summary box must be provided at the head of:
- a. any monthly billing information
  - b. any other periodic billing information
- 3.11** If a directed PSP gives a merchant billing information through a merchant portal it must display the bespoke summary box in a prominent place. This obligation applies whether or not a merchant also receives billing information in another way.
- 3.12** A directed PSP may not charge a merchant for the provision of a bespoke summary box.

### Requirements for providing information – online quotation tool

#### PSPs

- 3.13** A directed PSP must provide an online quotation tool on their website.
- 3.14** The online quotation tool must:
- a. ask relevant merchants that are prospective customers to enter key information
  - b. use that information to generate indicative pricing and non-pricing information (indicative information)

- c. provide the indicative information to relevant merchants that are prospective customers

**3.15** The key information referred to in paragraph a is:

- a. total card acceptance in previous 12 months, if available
- b. average transaction value
- c. merchant category code

**3.16** The indicative information referred to in paragraph b and c is that which is published on the PSR's website from time to time under the title of 'Online quotation tool template'.

**3.17** The indicative information must be provided in the form published on the PSR's website from time to time under the title 'Online quotation tool template'.

**3.18** The PSR may amend the key and indicative information prescribed at paragraphs 3.15 and 3.16 or the form to be used under paragraph 3.17, and will provide reasonable notice of any such change.

**3.19** A directed PSP may allow its online quotation tool to provide other information in addition to the indicative information prescribed in paragraph 3.16.

**3.20** In order to facilitate the provision of other information as described at paragraph 3.19, a directed PSP may allow prospective customers to enter other information in addition to the key information prescribed in paragraph 3.15.

**3.21** If a directed PSP chooses to provide and/or allow additional information as set out in paragraphs 3.19 and 3.20, this must not affect the generation and provision of indicative information as set out in paragraphs 3.14 and 3.16.

**3.22** An online quotation tool must not demand contact details, including a telephone or email address, in order to generate and provide indicative pricing.

**3.23** A directed PSP may not charge a merchant for the use of an online quotation tool.

**3.24** The online quotation tool must be displayed prominently ~~fashion~~ on the directed PSP's website, no more than one click from the landing page.

## ISOs

**3.25** Sometimes a directed PSP will not have a direct relationship with a merchant using its card-acquiring services. If the merchant has contracted such services through a relevant ISO, the directed PSP must ensure that the relevant ISO hosts on its website an online quotation tool as required at paragraphs 3.14 to 3.24 above.

- 3.26** A directed PSP must provide a relevant ISO with reasonable notice of any amendment to the 'summary box template' or 'online quotation tool template' which they are notified of in accordance with paragraphs 3.8 or 3.18 above.
- 3.27** A relevant ISO is any ISO which has a contract with a directed PSP where the purpose of the contract involves merchants using the directed PSP's card-acquiring services.

## General requirements

- 3.28** A directed PSP must take into account any relevant guidance the PSR publishes.
- 3.29** A directed PSP must make a relevant ISO aware of any relevant guidance the PSR publishes in a timely fashion.
- 3.30** A directed PSP must ensure as far as possible that any information provided to merchants under this direction is complete and accurate.
- 3.31** Reasonable modifications may be made to either the 'summary box template' form or the 'online quotation tool' form for accessibility reasons only. Such modifications may not include changes to the information or categories of information to be provided.

## 4 Key definitions

- 4.1** **Act** means the Financial Services (Banking Reform) Act 2013.
- 4.2** **Billing information** means the total amount of transactions, fees and charges enabling a merchant to reconcile and confirm card acceptance costs.
- 4.3** **Card-acquiring services** means services to accept and process card transactions on behalf of a merchant, resulting in a transfer of funds to the merchant.
- 4.4** **Card turnover** means total amount of card transactions taken by a merchant within a specified period.
- 4.5** **Contract for card-acquiring services** means an agreement between an acquirer and an organisation for the provision of card and affiliated services for the exchange of monetary value.
- 4.6** **Directed PSPs** means the PSPs to which this specific direction is given.
- 4.7** **Merchant portal** means an online service provided to a merchant to allow them to access information about their card-acquiring services at any time, including details of transactions acquired by the provider.

- 4.8 Independent sales organisation (ISO)** means an organisation that sells card-acquiring and ancillary products and services on behalf of an acquirer, and in return is paid commission for the sales and/or ongoing management of the relationship.
- 4.9 Merchant** means an organisation which accepts card payments.
- 4.10 Participant** has the meaning given by section 42(2) of the Act.
- 4.11 Payment facilitator** means a PSP that contracts with one or more merchants to provide card-acquiring services, but may not have a direct contractual relationship with the operator of a card payment system. A payment facilitator must be registered with the operator of a card payment system by an acquirer with whom it contracts.
- 4.12 Payment system** has the meaning given by section 41 of the Act.
- 4.13 Payment Systems Regulator or PSR** means the body corporate established under Part 5 of the Act.
- 4.14 POS terminal** means an electronic device that a merchant uses to accept a card in a card-present transaction without the need to connect to a smartphone or tablet.
- 4.15 PSP** means a payment service provider within the meaning of section 42 of the Act.
- 4.16 Regulated payment system** means a payment system designated by HM Treasury under section 43 of the Act.
- 4.17 Relevant business** means activity in respect of which Section 3 of this direction imposes obligations.

## 5 Monitoring

- 5.1** The PSR may from time to time in writing require a directed PSP to provide it with a report on its compliance with:
- a. this direction
  - b. any requirements the PSR makes known in writing to the directed PSP or issues in guidance
- 5.2** The directed PSP must provide the report required under paragraph 5.1 by the date given by the PSR.

- 5.3** The PSR may from time to time in writing require a directed PSP to provide or produce information about:
- a. how the PSP is complying, or proposes to comply, with this direction
  - b. which the PSR otherwise requires in connection with monitoring compliance with or the effectiveness of this direction
- 5.4** The directed PSP must provide the information by the date given by the PSR.

## 6 Application

- 6.1** This direction applies to the directed PSPs named above.
- 6.2** Subject to paragraph 6.11, where a directed PSP ('the transferor') transfers relevant business to another person, that person ('the transferee') is, from the date of transfer, a directed PSP.
- 6.3** This applies whether or not the transfer is to a group undertaking (which has the same meaning as in section 1161(5) of the Companies Act 2006).
- 6.4** Subject to paragraphs 6.10 and 6.11, despite the transfer, the transferor remains a directed PSP.
- 6.5** The transferor must give advance notice in writing to the PSR of the proposed transfer. That notice must include the anticipated date of the transfer, the name of the proposed transferee and their contact details, confirmation of whether or not the transferee is a group undertaking, the transferor's submission on whether paragraph 6.10 will apply and a description of the relevant business being transferred. The PSR may require further information to be provided about the transfer (this is without prejudice to any other power the PSR has to require information to be provided).
- 6.6** The notification must be given by the transferor as soon as reasonably practicable after a date for transfer has been set, and in any event no later than 28 days before the date of the anticipated transfer.
- 6.7** If, following the notification, there is a material change to the matters set out in the notice (for example that the transfer is no longer happening or it is to happen on a different date), the transferor must notify the PSR in writing of the change as soon as reasonably practicable.
- 6.8** Immediately following the transfer, the transferor and the transferee must notify the PSR in writing that the transfer has been completed. That notification may be given jointly or individually.

- 6.9** Where the transfer of relevant business is to more than one person, each person to which relevant business is transferred is a transferee for the purposes of this direction and consequently the PSR will assess each transferee separately for the purposes of paragraph 6.11.
- 6.10** Where the PSR is satisfied that, by virtue of the transfer, the transferor is no longer a PSP in a relevant regulated payment system (those systems being the Visa Europe and Mastercard payment systems), it will give notice in writing to the transferor that it is no longer a directed PSP.
- 6.11** The PSR may decide that a transferee or a transferor is not, despite paragraph 6.2 or 6.4, to be, or remain, a directed PSP. If it does so, it will provide a written notice to the transferee or transferor (as appropriate) setting out that decision and, in doing so, specifying when its decision will come into effect (which may be on a specified date or by reference to an event (such as the transfer)). The decision may be stated to be contingent on the transfer happening (including happening in a particular way or in relation to particular relevant business). The PSR's notice may be given at any time after the notification mentioned in paragraph 6.5 has been given to the PSR, including after the transfer has taken place.
- 6.12** The PSR shall maintain a schedule of directed PSPs on its website.

## 7 Commencement and duration

- 7.1** This specific direction comes into force on 6 July 2023.
- 7.1a** The obligations in this direction only apply to Checkout Ltd on and after [nine months after Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) comes into force].
- 7.2** This specific direction shall continue in force until such time as it is varied or revoked by the PSR.
- 7.3** The PSR will review this direction three years and five years after the date on which it comes into force.
- 7.4** The PSR may also review this direction at any other time than as provided for in paragraph 7.3.
- 7.5** The PSR may vary or revoke this direction at any time.

## 8 Citation

- 8.1** This specific direction may be cited as Specific Direction 14 (card-acquiring – provision of information (summary box)).

## 9 Interpretation

- 9.1** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 9.2** The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament, except where words and expressions are expressly defined.
- 9.3** References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.
- 9.4** In this specific direction, the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word 'include' and its derivatives shall be construed accordingly.

**Made on 6 October 2022**

**(varied by Specific Direction 14/15/16a on [DATE])**

**Chris Hemsley**

Managing Director  
Payment Systems Regulator

# Explanatory notes

## Summary box

1. With respect to pricing information on transactional charges, this direction is intended to take into account that different PSPs offer card-acquiring service products that differ in how the cost of accepting a transaction is determined. PSPs may apply a 'headline rate' to a particular type of transaction which can take the form of a pence per transaction fee, an ad valorem fee or a combination of the two. Some PSPs may also apply additional transaction charges to certain transactions – for example, card-not-present transactions. The intention is that the summary box clearly explains to the merchant how they are charged for accepting transactions and to highlight that the different characteristics of a transaction may affect the cost.
2. With respect to pricing information on non-transactional charges, this direction is intended to take into account the fact that for merchants using many different CAS products, transaction charges will not account for all of their charges; in many cases, non-transactional charges will represent a significant portion of their total charges for accepting card payments. The summary box is therefore intended to capture some of the more significant recurring charges to highlight to merchants that these charges will also apply and the level of these charges. Where a provider does not charge such fees, or a third party provides and charges the merchant directly for certain services (such as supplying POS terminals), they will be able to note this accordingly.

## Online quotation tool

3. By displaying a quote in a format based closely on the summary box format, merchants will be able to easily compare the quote with their summary box information provided by their existing provider. This will inform their decisions whether to switch provider or, alternatively, to attempt to negotiate better pricing with their existing provider.
4. The pricing and non-price information contained in the quote is intended to be indicative. This direction takes into account that the provider will need additional information and to undertake certain processes (such as 'know-your-customer' (KYC) and anti-money laundering checks) from the merchant in order to provide a contractual offer with binding pricing. That said, as many of the key information items providers use to determine pricing are contained in the summary box (for example, average transaction value, merchant category code, etc), the expectation is that the indicative pricing (and non-price factors) will be reasonably proximate to what the provider may offer on a binding basis.



## Application to ISOs

5. ISOs can be an important entry point for merchants looking to buy card-acquiring services. ISOs are tasked by acquirers with procuring new merchant relationships in return for commission. Given ISOs' role in merchant recruitment, the PSR is directing the directed PSPs to ensure that any ISOs they work with provide online quotation tools. This will allow merchants to have access to a wide range of indicative pricing information, which they can use to inform their decisions when shopping around.
6. The PSR would expect a directed PSP to make partner ISOs aware of the relevant requirements of this direction and any other applicable guidance, publication or consultation by the PSR. It should do so in a timely manner.

## Modifications for accessibility

7. The direction allows for reasonable modifications to be made to the prescribed forms for the summary box and/or online quotation tool where necessary for accessibility reasons – for example, to allow for an Easy Read version. No modifications other than those necessary may be made to the format, and all information prescribed must be included.

# Status of directions and explanatory notes

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

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

Specific Direction 15 requiring providers of card-acquiring services to provide prompts to merchants

Specific Direction 15 (card-acquiring – trigger messages)

October 2022

Varied by Specific Direction 14/15/16a

Consolidated version

# Specific Direction 15

## (card-acquiring – trigger messages)

### 1 Recitals

#### Whereas:

- 1.1** The PSR launched its card-acquiring market review in 2018 due to concerns that card-acquiring services may not offer value for money for merchants. It published the final report on 3 November 2021. It concluded that the supply of card-acquiring services does not work well for small and medium-sized merchants and large merchants with annual card turnover up to £50 million.
- 1.2** In the final report, the PSR identified three features that individually and in combination, restrict merchants' willingness and ability to search and switch between card-acquiring providers.
- 1.3** The PSR wants to remedy these features to improve outcomes for merchants. It aims to do this by:
- a. encouraging them to search and switch, or negotiate with their existing provider
  - b. reducing the obstacles to switching
  - c. subsequently creating incentives for suppliers of card-acquiring services to develop and offer better deals for merchants through competitive pressure as merchants become more engaged and shop around more actively with better information
- 1.4** This specific direction is intended to remedy the feature of concern of the indefinite duration of acquirer and payment facilitator contracts for card-acquiring services.
- 1.5** This direction is addressed to ~~14~~<sup>16</sup> specified payment service providers (PSPs).
- 1.6** This direction was varied by Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) to update the list of directed PSPs, to introduce a mechanism for obligations to be placed on PSPs taking on relevant business and to add Checkout Ltd to the list of directed PSPs (and make provision about when Checkout Ltd will be subject to the obligations of the direction).

## 2 Powers exercised and purpose

- 2.1** Visa Europe and Mastercard are payment systems designated by the Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 (the Act) for the purposes of Part 5 of the Act.
- 2.2** The PSR makes this direction in accordance with sections 54(1) and (3) (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to persons of a specified description, all of which are participants in the Visa Europe and Mastercard regulated payment systems.
- 2.3** The PSR has had regard as appropriate to sections 49 to 53 (General duties of the Regulator) and section 62(2)(a) (Duty to consider exercise of powers under the Competition Act 1998) of the Act.
- 2.4** The purpose of this direction is to require directed PSPs to provide a trigger message to merchants before the end of the initial minimum term (and any renewal after that), or every month in contracts with no term or which continue after the initial minimum term for an indefinite period, to encourage merchants to consider searching and switching providers.

DRAFT

# Direction

NOW the PSR gives the following specific direction to:

~~Adyen UK Limited~~

Adyen N.V.

Barclays Bank PLC

Chase Paymentech Europe Limited

Checkout Ltd

Elavon Financial Services DAC

~~EVO Payments International GmbH, Branch UK~~

EVO Payments UK Ltd

First Data Europe Limited

~~First Merchant Processing (Ireland) DAC~~

First Merchant Processing (UK) Limited

GPUK LLP

JPMorgan Chase Bank, National Association

Lloyds Bank plc

~~PayPal (Europe) Sarl et Cie SCA~~

PayPal UK Ltd

~~Square UK~~

Squareup Europe Ltd

Stripe Payments UK Ltd

SumUp Payments Limited

Worldpay (UK) Limited

## 3 General provisions

### Scope of this direction

- 3.1 This direction applies to the ~~14~~16 directed PSPs named above.
- 3.2 This direction applies in relation to participation in the Visa Europe and Mastercard regulated payment systems.

- 3.3** This direction applies in relation to merchants with an annual card turnover of up to £50 million.

### Requirements for providing information – trigger message

- 3.4** A directed PSP must send an individual message (trigger message) to a merchant with a contract for card-acquiring services.
- 3.5** Where there is an initial minimum term to the merchant's contract, including where the initial minimum term is renewed, the trigger message must include all of the following:
- a. The fact that the end of the term is approaching and the date the minimum term ends on.
  - b. An explanation that the merchant can shop around to see if they can get a better deal.
  - c. An explanation that consumption information is available in the merchant's summary box.
  - d. Information about the directed PSP's online quotation tool, which merchants can use to find indicative information.
  - e. A link to the directed PSP's online quotation tool.
  - f. An explanation that similar online quotation tools are available from other providers.
  - g. An explanation that merchants may want to consider other service features as well as price when they assess their options.
  - h. An explanation that merchants may want to consider POS terminal lease or rental contract arrangements, including minimum contract end term dates, when they assess their options.
- 3.6** Where there is no initial minimum term, or where any initial minimum term is complete and the contract carries on indefinitely, the message must include the items outlined in paragraphs 3.5(b) to (h).
- 3.7** Where there is an initial minimum term to the contract referred to in paragraph 3.4, the 'relevant date' for providing a trigger message is:
- a. 31 calendar days prior to the last day of the minimum term period or any renewal after that, and
  - b. once the minimum term is complete, monthly thereafter
- 3.8** Where there is no initial minimum term to the contract referred to in paragraph 3.4, the 'relevant date' for providing a trigger message is:
- a. the date which is one month after the date on which the contract was agreed, and

b. monthly thereafter

**3.9** Where a directed PSP sends a merchant monthly billing information, it must include a trigger message in the monthly invoice it sends to that merchant closest to the 'relevant date'.

**3.10** A directed PSP must include a trigger message provided in accordance with paragraph 3.409 on the front page of the merchant's monthly billing statement.

**3.11** Where a merchant accesses an account through a merchant portal, a directed PSP must display a trigger message continuously from the 'relevant date' either:

- a. where there is an initial minimum term which is not yet complete, until the date on which that term expires, or
- b. where the initial minimum term has already passed, or where there was no initial minimum term, for one month

A directed PSP must display a trigger message provided in accordance with paragraph 3.4211 (a) or (b) prominently on the first landing page of the electronic dashboard.

## General

**3.12** A directed PSP must take into account any relevant guidance the PSR publishes.

**3.13** A directed PSP must ensure that any information it provides to merchants under this direction is complete and accurate.

## 4 Key definitions

**4.1** **Act** means the Financial Services (Banking Reform) Act 2013.

**4.2** **Billing information** means the total amount of transactions, fees and charges enabling a merchant to reconcile and confirm card acceptance costs.

**4.3** **Card-acquiring services** means services to accept and process card transactions on behalf of a merchant, resulting in a transfer of funds to the merchant.

**4.4** **Contract for card-acquiring services** means an agreement between an acquirer and an organisation for the provision of card and affiliated services for the exchange of monetary value.

**4.5** **Directed PSPs** means the PSPs to which this specific direction is given.

- 4.6 Electronic dashboard** means an online service provided to a merchant to allow them to access information about their card-acquiring services at any time, including details of transactions acquired by the provider.
- 4.7 Initial minimum term** means the shortest length of the first term of a contract, and is typically referred to as 'minimum term', 'minimum period' or 'initial term' in POS terminal contracts.
- 4.8 Merchant** means an organisation which accepts card payments.
- 4.9 Online quotation tool** means the tool for generating indicative pricing mandated in Specific Direction ~~X+14~~14(card-acquiring – provision of information (summary box)).
- 4.10 Participant** has the meaning given by section 42(2) of the Act.
- 4.11 Payment System** has the meaning given by section 41 of the Act.
- 4.12 Payment Systems Regulator or PSR** means the body corporate established under Part 5 of the Act.
- 4.13 POS terminal** means an electronic device that a merchant uses to accept a card in a card-present transaction without the need to connect to a smartphone or tablet.
- 4.14 POS terminal lease or rental** means a contract entered into by a merchant to lease or rent a device that enables the acceptance of card transactions for processing by an acquirer related to a card scheme.
- 4.15 PSP** means a payment service provider within the meaning of section 42 of the Act.
- 4.16 Regulated payment system** means a payment system designated by HM Treasury under section 43 of the Act.
- 4.17 Relevant business** means activity in respect of which Section 3 of this direction imposes obligations.

## 5 Monitoring

- 5.1** The PSR may from time to time in writing require a directed PSP to provide it with a report on its compliance with:
- a. this direction
  - b. any requirements the PSR makes known in writing to the directed PSP or issues in guidance



- 5.2** The PSP must provide the report required under paragraph 5.1 by the date given by the PSR.
- 5.3** The PSR may from time to time in writing require a directed PSP to provide or produce information about:
- a. how the PSP is complying, or proposes to comply, with this direction
  - b. which the PSR otherwise requires in connection with monitoring compliance with or the effectiveness of this direction
- 5.4** The PSP must provide the information by the date given by the PSR.

## 6 Application

- 6.1** This direction applies to the directed PSPs named above.
- 6.2** Subject to paragraph 6.11, where a directed PSP ('the transferor') transfers relevant business to another person, that person ('the transferee') is, from the date of transfer, a directed PSP.
- 6.3** This applies whether or not the transfer is to a group undertaking (which has the same meaning as in section 1161(5) of the Companies Act 2006).
- 6.4** Subject to paragraphs 6.10 and 6.11, despite the transfer, the transferor remains a directed PSP.
- 6.5** The transferor must give advance notice in writing to the PSR of the proposed transfer. That notice must include the anticipated date of the transfer, the name of the proposed transferee and their contact details, confirmation of whether or not the transferee is a group undertaking, the transferor's submission on whether paragraph 6.10 will apply and a description of the relevant business being transferred. The PSR may require further information to be provided about the transfer (this is without prejudice to any other power the PSR has to require information to be provided).
- 6.6** The notification must be given by the transferor as soon as reasonably practicable after a date for transfer has been set, and in any event no later than 28 days before the date of the anticipated transfer.
- 6.7** If, following the notification, there is a material change to the matters set out in the notice (for example that the transfer is no longer happening or it is to happen on a different date), the transferor must notify the PSR in writing of the change as soon as reasonably practicable.

- 6.8** Immediately following the transfer, the transferor and the transferee must notify the PSR in writing that the transfer has been completed. That notification may be given jointly or individually.
- 6.9** Where the transfer of relevant business is to more than one person, each person to which relevant business is transferred is a transferee for the purposes of this direction and consequently the PSR will assess each transferee separately for the purposes of paragraph 6.11.
- 6.10** Where the PSR is satisfied that, by virtue of the transfer, the transferor is no longer a PSP in a relevant regulated payment system (those systems being the Visa Europe and Mastercard payment systems), it will give notice in writing to the transferor that it is no longer a directed PSP.
- 6.11** The PSR may decide that a transferee or a transferor is not, despite paragraph 6.2 or 6.4, to be, or remain, a directed PSP. If it does so, it will provide a written notice to the transferee or transferor (as appropriate) setting out that decision and, in doing so, specifying when its decision will come into effect (which may be on a specified date or by reference to an event (such as the transfer)). The decision may be stated to be contingent on the transfer happening (including happening in a particular way or in relation to particular relevant business). The PSR's notice may be given at any time after the notification mentioned in paragraph 6.5 has been given to the PSR, including after the transfer has taken place.
- 6.12** The PSR shall maintain a schedule of directed PSPs on its website.

## 7 Commencement and duration

- 7.1** This specific direction comes into force on 6 July 2023.
- 7.1a** The obligations in this direction only apply to Checkout Ltd on and after [nine months after Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) comes into force].
- 7.2** This specific direction shall continue in force until such time as it is varied or revoked by the PSR.
- 7.3** The PSR will review this direction three years and five years after the date on which it comes into force.
- 7.4** The PSR may also review this direction at any other time than as provided for in paragraph 7.3.
- 7.5** The PSR may vary or revoke this direction at any time.

## 8 Citation

- 8.1 This specific direction may be cited as Specific Direction 15 (card-acquiring – provision of information (trigger messages)).

## 9 Interpretation

- 9.1 The headings and titles used in this specific direction are for convenience and have no legal effect.
- 9.2 The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament, except where words and expressions are expressly defined.
- 9.3 References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.
- 9.4 In this specific direction, the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word 'include' and its derivatives shall be construed accordingly.

**Made on 6 October 2022**  
(varied by SD 14/15/16a on [DATE])

**Chris Hemsley**  
Managing Director  
Payment Systems Regulator

# Specific Direction 16 limiting the length of initial terms for point-of-sale terminal contracts

Specific Direction 16 (acquirer POS terminal lease extent)

October 2022

(varied by Specific Direction 14/15/16a)

DRAFT Consolidated version

# Specific Direction 16

## (acquirer POS terminal lease extent)

### 1 Recitals

#### Whereas:

- 1.1** The PSR launched its card-acquiring market review in 2018 due to concerns that card-acquiring services may not offer value for money for merchants. It published the final report on 3 November 2021. It concluded that the supply of card-acquiring services does not work well for small and medium-sized merchants and large merchants with annual card turnover up to £50 million.
- 1.2** In the final report, the PSR identified three features that individually and in combination, restrict merchants' willingness and ability to search and switch between card-acquiring providers.
- 1.3** The PSR wants to remedy these features to improve outcomes for merchants. It aims to do this by:
- a. encouraging them to search and switch, or negotiate with their existing provider
  - b. reducing the obstacles to switching
  - c. subsequently creating incentives for suppliers of card-acquiring services to develop and offer better deals for merchants through competitive pressure as merchants become more engaged and shop around more actively with better information
- 1.4** This specific direction is intended to remedy the feature of concern that POS terminals and POS terminal contracts discourage merchants from searching and switching provider of card-acquiring services.
- 1.5** This direction is addressed to ~~14~~16 specified payment service providers (PSPs).
- 1.6** This direction was varied by Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) to update the list of directed PSPs, to introduce a mechanism for obligations to be placed on PSPs taking on relevant business and to add Checkout Ltd to the list of directed PSPs (and make provision about when Checkout Ltd will be subject to the obligations of the direction).

## 2 Powers exercised and purpose

- 2.1** Visa Europe and Mastercard are payment systems designated by the Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 (the Act) for the purposes of Part 5 of the Act.
- 2.2** The PSR makes this direction in accordance with sections 54(1) and (3) (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to persons of a specified description, all of which are participants in the Visa Europe and Mastercard regulated payment systems.
- 2.3** In making its decision to use its section 54 powers, the PSR had regard to section 62(2)(a) (Duty to consider exercise of powers under the Competition Act 1998) of the Act.
- 2.4** The purpose of this direction is to require directed PSPs to ensure, in relation to merchants with an annual card turnover up to £10 million, that merchant contracts which include provision of POS terminals and incur scheduled payments, where that merchant is making use of the directed PSP's card-acquiring services, do not have an initial term in excess of 18 months and thereafter move to a rolling monthly contract.

# Direction

NOW the PSR gives the following specific direction to:

~~Adyen UK Limited~~

Adyen N.V.

Barclays Bank PLC

Chase Paymentech Europe Limited

Checkout Ltd

Elavon Financial Services DAC

~~EVO Payments International GmbH, Branch UK~~

EVO Payments UK Ltd

First Data Europe Limited

~~First Merchant Processing (Ireland) DAC~~

First Merchant Processing (UK) Limited

GPUK LLP

JPMorgan Chase Bank, National Association

Lloyds Bank plc

~~PayPal (Europe) Sarl et Cie SCA~~

PayPal UK Ltd

~~Square UK~~

Squareup Europe Ltd

Stripe Payments UK Ltd

SumUp Payments Limited

Worldpay (UK) Limited

## 3 General provisions

### Scope of this direction

- 3.1 This direction applies to the ~~14~~16 directed PSPs named above.
- 3.2 This direction applies in relation to participation in the Visa Europe and Mastercard regulated payment systems.

- 3.3** This direction applies in relation to any contract or other arrangement, however named, which:
- a. includes the provision of one or more POS terminals
  - b. specifies a schedule of at least two payments, and
  - c. is between a merchant with an annual card turnover of up to £10,000,000 which makes use of card-acquiring services operated or provided by a directed PSP, and either:
    1. a directed PSP, or
    2. a third party such as an ISO or leasing company

## Requirements for POS terminal contracts

### New POS terminal contracts

- 3.4** In relation to a new relevant merchant terminal contract, a directed PSP must ensure that:
- a. if there is an initial minimum term:
    1. it is not longer than 18 months, and
    2. once any initial minimum term is completed (and the contract does not at that point terminate), the contract has a maximum one-month recurring term, with one month's notice on the merchant's side
  - b. if there is no initial minimum term, after a maximum of 18 months from the date the contract was entered into has passed, the contract is subject to a maximum one-month recurring term, with one month's notice on the merchant side
  - c. if there are any exit or termination fees these are cost based, transparent, and have been fully explained to merchants before they enter into the contract

- 3.5** A new relevant merchant contract is a contract that:
- a. meets the criteria in paragraph 3.3, and
  - b. is entered into on or after the date on which this specific direction comes into force

### Existing POS terminal contracts

- 3.6** In relation to an existing relevant merchant contract, a directed PSP must ensure that:
- a. once any initial minimum term is completed, the contract has a maximum one month recurring term, with one month's notice on the merchant's side; or



- b. where there was no initial minimum term, after the period of a maximum of 18 months from the date the contract was entered into has passed, the contract is subject to a maximum one month recurring term, with one month's notice on the merchant's side

**3.7** An existing POS terminal contract is a contract that:

- a. meets the criteria in paragraph 3.3, and
- b. was entered into before the date on which this specific direction came into force

**3.8** A directed PSP must take into account any relevant guidance the PSR publishes.

### Third party providers

**3.9** Where the directed PSP does not directly contract with a merchant for the provision of one or more POS terminals, the PSP must ensure that the relevant provider of such equipment complies with the requirements of paragraphs 3.4 to 3.7 of this direction.

**3.10** A directed PSP must draw the attention of a relevant provider to any relevant guidance the PSR publishes.

**3.11** A relevant provider is any provider of POS terminal equipment which has:

- a. a contract which meets the criteria at paragraph 3.3, and
- b. a contractual relationship with:
  1. a directed PSP, or
  2. an ISO with a contractual relationship with a directed PSP, or
  3. a payment facilitator which is not a directed PSP, but provides access to the card-acquiring services of a directed PSP

## 4 Key definitions

**4.1** **Act** means the Financial Services (Banking Reform) Act 2013.

**4.2** **Card-acquiring services** means services to accept and process card transactions on behalf of a merchant, resulting in a transfer of funds to the merchant.

**4.3** **Directed PSPs** means the PSPs to which this specific direction is given.

**4.4** **Independent sales organisation (ISO)** means an organisation which sells acquiring services to merchants by contractual agreement with an acquirer.

- 4.5 Initial minimum term** means the shortest length of the first term of a contract, and is typically referred to as 'minimum term', 'minimum period' or 'initial term' in POS terminal contracts.
- 4.6 Merchant** means an organisation which accepts card payments.
- 4.7 Participant** has the meaning given by section 42(2) of the Act.
- 4.8 Payment facilitator** means a PSP that contracts with one or more merchants to provide card-acquiring services, but may not have a direct contractual relationship with the operator of a card payment system. A payment facilitator must be registered with the operator of a card payment system by an acquirer with whom it contracts.
- 4.9 Payment System** has the meaning given by section 41 of the Act.
- 4.10 Payment Systems Regulator or PSR** means the body corporate established under Part 5 of the Act.
- 4.11 POS terminal** means an electronic device that a merchant uses to accept a card in a card-present transaction without the need to connect to a smartphone or tablet.
- 4.12 POS terminal contract** means any contract or other arrangement as described at paragraph 3.3.
- 4.13 PSP** means a payment service provider within the meaning of section 42 of the Act.
- 4.14 Regulated payment system** means a payment system designated by the Treasury under section 43 of the Act.
- 4.15 Relevant business** means activity in respect of which Section 3 of this direction imposes obligations.

## 5 Monitoring

- 5.1** The PSR may from time to time in writing require a directed PSP to provide it with a report on its compliance with:
- a. this direction
  - b. any requirements the PSR makes known in writing to the directed PSP or issues in guidance issued by the PSR
- 5.2** The PSP must provide the report required under paragraph 5.1 by the date given by the PSR.

- 5.3** The PSR may from time to time in writing require a directed PSP to provide or produce information about:
- a. how the PSP is complying, or proposes to comply, with this direction
  - b. which the PSR otherwise requires in connection with monitoring compliance with or the effectiveness of this direction
- 5.4** The PSP must provide the information by the date given by the PSR.

## 6 Application

- 6.1** This direction applies to the directed PSPs named above.
- 6.2** Subject to paragraph 6.11, where a directed PSP ('the transferor') transfers relevant business to another person, that person ('the transferee') is, from the date of transfer, a directed PSP.
- 6.3** This applies whether or not the transfer is to a group undertaking (which has the same meaning as in section 1161(5) of the Companies Act 2006).
- 6.4** Subject to paragraphs 6.10 and 6.11, despite the transfer, the transferor remains a directed PSP.
- 6.5** The transferor must give advance notice in writing to the PSR of the proposed transfer. That notice must include the anticipated date of the transfer, the name of the proposed transferee and their contact details, confirmation of whether or not the transferee is a group undertaking, the transferor's submission on whether paragraph 6.10 will apply and a description of the relevant business being transferred. The PSR may require further information to be provided about the transfer (this is without prejudice to any other power the PSR has to require information to be provided).
- 6.6** The notification must be given by the transferor as soon as reasonably practicable after a date for transfer has been set, and in any event no later than 28 days before the date of the anticipated transfer.
- 6.7** If, following the notification, there is a material change to the matters set out in the notice (for example that the transfer is no longer happening or it is to happen on a different date), the transferor must notify the PSR in writing of the change as soon as reasonably practicable.
- 6.8** Immediately following the transfer, the transferor and the transferee must notify the PSR in writing that the transfer has been completed. That notification may be given jointly or individually.

- 6.9** Where the transfer of relevant business is to more than one person, each person to which relevant business is transferred is a transferee for the purposes of this direction and consequently the PSR will assess each transferee separately for the purposes of paragraph 6.11.
- 6.10** Where the PSR is satisfied that, by virtue of the transfer, the transferor is no longer a PSP in a relevant regulated payment system (those systems being the Visa Europe and Mastercard payment systems), it will give notice in writing to the transferor that it is no longer a directed PSP.
- 6.11** The PSR may decide that a transferee or a transferor is not, despite paragraph 6.2 or 6.4, to be, or remain, a directed PSP. If it does so, it will provide a written notice to the transferee or transferor (as appropriate) setting out that decision and, in doing so, specifying when its decision will come into effect (which may be on a specified date or by reference to an event (such as the transfer)). The decision may be stated to be contingent on the transfer happening (including happening in a particular way or in relation to particular relevant business). The PSR's notice may be given at any time after the notification mentioned in paragraph 6.5 has been given to the PSR, including after the transfer has taken place.
- 6.12** The PSR shall maintain a schedule of directed PSPs on its website.

## 7 Commencement and duration

- 7.1** This specific direction comes into force on 6 January 2023.
- 7.1a** The obligations in this direction only apply to Checkout Ltd on and after [three months after Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) comes into force].
- 7.2** This specific direction shall continue in force until such time as it is varied or revoked by the PSR.
- 7.3** The PSR will review this direction three years and five years after the date on which it comes into force.
- 7.4** The PSR may also review this direction at any other time than as provided for in paragraph 7.3.
- 7.5** The PSR may vary or revoke this direction at any time.

## 8 Citation

- 8.1** This specific direction may be cited as Specific Direction 16 (acquirer POS terminal lease extent).

## 9 Interpretation

- 9.1** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 9.2** The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament, except where words and expressions are expressly defined.
- 9.3** References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.
- 9.4** In this specific direction, the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word 'include' and its derivatives shall be construed accordingly.

**Made on 6 October 2022**  
(varied by SD 14/15/16a on [DATE])

**Chris Hemsley**  
Managing Director  
Payment Systems Regulator

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