

Lowering risks to delivery of the  
New Payments Architecture

# **Annexes 3 and 4**

## Draft Specific Directions

July 2021

---

We welcome your views on the draft legal instruments, varying Specific Directions 2 and 3, that we propose to use to implement our decisions on the way forward for the NPA programme. If you would like to provide comments, please send these to us by **5pm on 10 September 2021**.

You can email your comments to **PSRNPA@psr.org.uk** or write to us at:

PSR Pay.UK/NPA project team  
Payment Systems Regulator  
12 Endeavour Square  
London E20 1JN

We will take account of your comments when finalising the legal instruments.

We intend to publish all responses (see below about confidentiality).

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. Therefore, when submitting your response, please highlight any parts of it which you consider should be redacted before publication due to confidentiality. We may nonetheless be required to disclose responses which include information marked as confidential in order to meet legal obligations, in particular as a result of a request made 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 First Tier Tribunal.

You can download this paper from our website:

<https://psr.org.uk/publications/consultations/cp21-8-lowering-risks-to-delivery-of-the-new-payments-architecture/>

We take our data protection responsibilities seriously and will process any personal data that you provide to us in accordance with the Data Protection Act 2018, the General Data Protection Regulation and our PSR Data Privacy Policy. For more information on how and why we process your personal data, and your rights in respect of the personal data that you provide to us, please see our website privacy policy, available here: <https://www.psr.org.uk/privacy-notice>

---

# Contents

<b>Annex 3</b> Draft Specific Direction 2a varying Specific Direction 2 (Procurement: Bacs)	<b>4</b>
<b>Annex 4</b> Draft Specific Direction 3a varying Specific Direction 3 (Procurement: FPS)	<b>11</b>

DRAFT

# Annex 3

## Draft Specific Direction 2a varying Specific Direction 2 (Procurement: Bacs)

### 1 Recitals

#### Whereas:

- 1.1** The Payment Systems Regulator (the PSR) gave Specific Direction 2 under section 54 of the Financial Services (Banking Reform) Act 2013 (the Act). It requires the operator of Bacs to ensure that central infrastructure services for Bacs are competitively procured. It came into force on 20 June 2017.
- 1.2** At the same time, the PSR gave Specific Direction 3 to the operator of the Faster Payments Scheme (FPS), with similar requirements for FPS.
- 1.3** Pay.UK is the current operator of Bacs and FPS. It is also responsible for facilitating the delivery of the New Payments Architecture (NPA). The NPA is intended to replace the current Bacs and FPS infrastructures, in line with the strategy set out in 2016 by the Payments Strategy Forum.<sup>1</sup>
- 1.4** To comply with Specific Directions 2 and 3, Pay.UK is competitively procuring central infrastructure services for the NPA. Its intention is that transactions currently carried out on Bacs and FPS infrastructure will be carried out on the NPA infrastructure.
- 1.5** The PSR has concluded that there are unacceptably high risks in Pay.UK's NPA delivery programme. To mitigate these risks, the PSR has decided to change the requirements for the operator's procurement of Bacs central infrastructure services. In particular, it is changing the requirements for:
- the functionality being procured
  - the timeline for the procurement
- 1.6** This specific direction varies Specific Direction 2 to give effect to the PSR's changes to the requirements on the operator of Bacs.

---

<sup>1</sup> See, in particular, the Forum's publication [A Payments Strategy for the 21st Century](#)

## 2 Powers exercised and purpose

- 2.1** The PSR makes this specific direction in accordance with section 54(3)(c) (*Regulatory and competition functions: Directions*) of the Act. In accordance with section 54(3)(c), this specific direction applies in relation to persons of a specified description.
- 2.2** The PSR has had regard in particular to the following provisions of the Act:
- a. sections 49 to 53 (*General duties of Regulator*)
  - b. section 62 (*Duty to consider exercise of powers under Competition Act 1998*)
- 2.3** The PSR gives this direction for the reasons set out in its policy statement CP21/8, *Lowering risks to delivery of the New Payments Architecture* (July 2021).<sup>2</sup>
- 2.4** The purpose of this direction is to implement changes to the requirements of Specific Direction 2 (Procurement: Bacs).

## Direction

**NOW the PSR gives the following specific direction to the operator of Bacs:**

## 3 Variation of SD2

- 3.1** Specific Direction 2 (Procurement: Bacs)<sup>3</sup> is varied as follows.
- 3.2** In paragraph 2.1 for “or after 2 December 2020<sup>4</sup>, or such later date as specified by the *Payment Systems Regulator* in accordance with section 4 below,”, substitute “such date as the *Payment Systems Regulator* may notify the operator of in writing”.
- 3.3** After paragraph 2.1, insert:
- “**2.1a** The *Payment Systems Regulator* will publish a copy of the notification on its website<sup>5</sup> within seven days of giving it.”
- 3.4** In paragraph 2.3, for “set out in, or specified under, paragraph 2.1”, substitute “notified under paragraph 2.1”.

2 <https://psr.org.uk/publications/consultations/cp21-8-lowering-risks-to-delivery-of-the-new-payments-architecture/>

3 See: <https://www.psr.org.uk/publications/general/specific-direction-2/>

4 By virtue of an extension given by the PSR under Section 4 of Specific Direction 2, the date applicable immediately before this variation was 2 December 2023.

5 <https://psr.org.uk>

**3.5** After paragraph 2.3, insert:

**"2.3a** The *operator* must not *enter into a new central infrastructure contract* unless:

- a. the *Payment Systems Regulator* has notified it of the date the contract must be in place by (under paragraph 2.1), and it has complied with the requirements of this Section in procuring the contract, or
- b. it has given notice of its intention to enter into the contract under the non-objection process (see Section 2A), and the *Payment Systems Regulator* has given notice in writing that it does not object.

**2.3b** The *operator* must not extend the *existing central infrastructure contract* (including by exercising any options to do so in the contract) unless it has given notice of its intention to extend under the non-objection process (see Section 2A), and the *Payment Systems Regulator* has given notice in writing that it does not object.

**2.3c** The *operator* must comply with any conditions the *Payment Systems Regulator* gives under paragraph 2A.6.

**2.3d** Paragraphs 2.3a to 2.3c do not prevent services or system functionality being provided for in a contract as additional functionality where paragraph 2.3a of Specific Direction 3 is satisfied in relation to that functionality."

**3.6** After section 2, insert:

"

## 2A Non-objection process

**2A.1** If the *operator* wishes to give notice under paragraph 2.3a(b) or 2.3b, it must do so in writing.

**2A.2** In the notice, the *operator* must set out:

- a. the date on which it proposes to enter into the contract or extension (or, if not known, the best estimate available)
- b. the purpose of entering into, or extending, the contract
- c. details of its consultation in relation to the new contract or extension (including on the implications for competition, innovation, service users and the *New Payments Architecture*), including the responses and its consideration of them
- d. a copy of the proposed contract, or, if the contract is being extended, the contract with any proposed changes highlighted

- e. a summary of the terms of the contract or, if the contract is being extended, a summary of the changes to the terms of the contract
- f. information not covered by sub-paragraphs (a) to (e) that it considers will assist the *Payment Systems Regulator*, in particular information relevant to the matters set out in paragraph 2A.4

**2A.3** The *Payment Systems Regulator* may:

- a. waive the requirement for the operator to provide any of the material mentioned in paragraph 2A.2 (to any extent)
- b. require further material that it considers appropriate for the non-objection process

**2A.4** In deciding whether to object (and whether to attach conditions to not objecting), the *Payment Systems Regulator* will take into account matters it considers relevant, including:

- a. whether the *operator* has consulted interested parties adequately, and how it has taken their views into account
- b. the strength of the *operator's* arguments for its intended course of action (including the risks involved), and how it compares to alternative actions it has considered (or should have considered)
- c. the implications for competition, innovation and service users, including consumers and businesses
- d. the implications for the benefits of the *New Payments Architecture*
- e. the implications for the *operator's* ability to comply with all its obligations under this Specific Direction 2

**2A.5** The *Payment Systems Regulator* will notify the operator in writing whether or not it objects.

**2A.6** The *Payment Systems Regulator* may attach conditions to a notification that it is not objecting (for example, conditions about the services to be included in the contract)."

**3.7** For Section 3 (reporting requirement), substitute:

"

## 3 Reporting requirements

**3.1** The reporting requirement set out in paragraphs 3.2 to 3.4 applies until the *Payment Systems Regulator* notifies the *operator* in writing that it has ended.

- 3.2** The *operator* must report to the *Payment Systems Regulator* on its work considering the future of the *Bacs* system (including *Bacs* payment services such as Direct Credits and Direct Debits).
- 3.3** As a minimum these reports must describe past (if not previously reported on), current or expected work relating to:
- a. the *operator's* views and expectations about future demand for *Bacs* payment services, including supporting processes, channels and services, including how this affects its position on sub-paragraphs (b) to (h)
  - b. extending the existing *Bacs central infrastructure contract*, or replacing it with a new *central infrastructure contract*
  - c. adding functionality to, or removing it from, *Bacs*
  - d. replicating or replacing functionality available in *Bacs* in the *New Payments Architecture*
  - e. migrating types of payments that *Bacs* processes to the *New Payments Architecture*
  - f. the *operator's* engagement with its stakeholders, and the outcome
  - g. any proposal for the *operator* to give notice that it intends to enter into a new infrastructure contract, or extend an existing contract
  - h. changing the way *Bacs*, or functions it carries out, operate, in a way that is relevant to the *New Payments Architecture* (where not covered by sub-paragraphs (a) to (g))

The report should include the *operator's* conclusions, as applicable to the stage reached, on the work.

- 3.4** The *operator* must submit a report on or before 30 June and 31 December each year. The first report is due on 30 June 2022.
- 3.5** If the *Payment Systems Regulator* has notified the *operator* of *Bacs* of a date under paragraph 2.1, the *operator* must report to the *Payment Systems Regulator* on its work under Section 2 of this Direction. This reporting requirement applies until the *Payment Systems Regulator* notifies the *operator* in writing that it has ended. As a minimum, each report must include:
- a. a description of the *operator's* progress in relation to the procurement steps in paragraph 2.2



- b. evidence demonstrating that, and a description of how, each of the requirements outlined at paragraph 2.2 has been, or will be, fulfilled, including:
  - 1. evidence demonstrating that, and a description of how, the *operator* has taken into account the results of its consultation with interested parties
  - 2. evidence demonstrating that, and a description of how, the *operator* has taken into account the results of its engagement with potential providers
- c. evidence demonstrating that, and a description of how, the requirement outlined at paragraph 2.5 has been, or will be, fulfilled

**3.6** The *operator* must submit a report on or before 31 March, 30 June, 30 September and 31 December each year. The *Payment Systems Regulator* will notify the operator of the date on which the first report is due when it gives notice of the date under paragraph 2.1.

**3.7** In respect of a report required under paragraph 3.2 or 3.5, the *Payment Systems Regulator* may:

- a. add to the matters that the *operator* must include in the report
- b. remove the requirement to cover any particular matter in the report
- c. suspend the requirement on the *operator* to provide a report, either for a specified period or indefinitely
- d. change the frequency of the reports
- e. require the operator to submit a report on, or before, a different date

It will notify the *operator* of any of these changes in writing.

**3.8** A change made under paragraph 3.7(a) or (b) can apply to a specific report or for an indefinite period.

**3.9** The *Payment Systems Regulator* may publish a report, or require the *operator* to publish it. The *operator* must comply with any deadline that the *Payment Systems Regulator* sets for this.

**3.10** The *Payment Systems Regulator* will take account of issues around confidentiality in deciding what should be published. In particular, it may require the *operator* to provide a version of the report that excludes confidential information for publication.”

- 3.8** Omit section 4 (Application to the *Payment Systems Regulator* to extend the date for compliance for transitional arrangement in relation to the *New Payments Architecture*).
- 3.9** For paragraph 5.1(b), substitute “the steps which the *operator* is taking, or proposing to take, to mitigate any risks arising from its non-compliance”.
- 3.10** In the table in paragraph 9.5:
- a. in the definition of “central infrastructure”, after “Bacs” insert “(or a system that forms part of the New Payments Architecture, to the extent it is intended to be a successor to Bacs)”
  - b. after the definition of “Consolidated operator” insert:

---

*“enter into a new central infrastructure contract*

Includes amending a central infrastructure contract within the meaning of Specific Direction 3 in order to provide for *central infrastructure* within the meaning of this Direction”

---

## 4 Application of Specific Direction 2a

- 4.1** This specific direction applies to the operator of Bacs.

## 5 Commencement

- 5.1** This specific direction comes into force on [date].
- 5.2** It continues in force until the PSR revokes it.

## 6 Citation

- 6.1** This specific direction may be cited as Specific Direction 2a varying Specific Direction 2 (Procurement: Bacs).

**Made on [date]**

**Chris Hemsley**  
**Managing Director,**  
**The Payment Systems Regulator Limited**

# Annex 4

## Draft Specific Direction 3a varying Specific Direction 3 (Procurement: FPS)

### 1 Recitals

#### Whereas:

- 1.1** The Payment Systems Regulator (the PSR) gave Specific Direction 3 under section 54 of the Financial Services (Banking Reform) Act 2013 (the Act). It requires the operator of the Faster Payments Scheme (FPS) to ensure that central infrastructure services for FPS are competitively procured. It came into force on 20 June 2017.
- 1.2** At the same time, the PSR gave Specific Direction 2 to the operator of Bacs, with similar requirements for Bacs.
- 1.3** Pay.UK is the current operator of FPS and Bacs. It is also responsible for facilitating the delivery of the New Payments Architecture (NPA). The NPA is intended to replace the current FPS and Bacs infrastructures, in line with the strategy set out in 2016 by the Payments Strategy Forum.<sup>1</sup>
- 1.4** To comply with Specific Directions 2 and 3, Pay.UK is competitively procuring central infrastructure services for the NPA. Its intention is that transactions currently carried out on FPS and Bacs infrastructure will be carried out on the NPA infrastructure.
- 1.5** The PSR has concluded that there are unacceptably high risks in Pay.UK's NPA delivery programme. To mitigate these risks, the PSR has decided to change the requirements for the operator's procurement of FPS central infrastructure services. In particular, it is changing the requirements for:
  - the functionality being procured
  - the timeline for the procurement
- 1.6** This specific direction varies Specific Direction 3 to give effect to the PSR's changes to the requirements on the operator of FPS.

---

<sup>1</sup> See, in particular, the Forum's publication [A Payments Strategy for the 21st Century](#)

## 2 Powers exercised and purpose

- 2.1** The PSR makes this specific direction in accordance with section 54(3)(c) (*Regulatory and competition functions: Directions*) of the Act. In accordance with section 54(3)(c), this specific direction applies in relation to persons of a specified description.
- 2.2** The PSR has had regard in particular to the following provisions of the Act:
- a. sections 49 to 53 (*General duties of Regulator*)
  - b. section 62 (*Duty to consider exercise of powers under Competition Act 1998*)
- 2.3** The PSR gives this direction for the reasons set out in its policy statement CP21/8, *Lowering risks to delivery of the New Payments Architecture* (July 2021).<sup>2</sup>
- 2.4** The purpose of this direction is to implement changes to the requirements of Specific Direction 3 (Procurement: FPS).

## Direction

**NOW the PSR gives the following specific direction to the operator of FPS:**

## 3 Variation of SD3

- 3.1** Specific Direction 3 (Procurement: FPS)<sup>3</sup> is varied as follows.
- 3.2** In paragraph 2.1 for “1 July 2020<sup>4</sup>, or such later date as specified by the *Payment Systems Regulator* in accordance with section 4 below,”, substitute “1 April 2026”.
- 3.3** In paragraph 2.3, omit “, or specified under,”.

---

<sup>2</sup> <https://psr.org.uk/publications/consultations/cp21-8-lowering-risks-to-delivery-of-the-new-payments-architecture/>

<sup>3</sup> See: <https://www.psr.org.uk/publications/general/specific-direction-3/>

<sup>4</sup> By virtue of an extension given by the PSR under Section 4 of Specific Direction 3, the date applicable immediately before this variation was 30 June 2023.

**3.4** After paragraph 2.3, insert:

**“2.3a** The *operator* must ensure that any *central infrastructure contract* in place on the date set out in paragraph 2.1:

- provides for the *minimum scope* but
- does not provide for services or system functionality beyond the *minimum scope* (“the additional functionality”) unless:
  - a. it has given notice of its intention to include the additional functionality under the non-objection process (see Section 2A) and
  - b. the *Payment Systems Regulator* has given notice in writing that it does not object.

**2.3b** The *operator* must comply with any conditions given under paragraph 2A.6.”

**3.5** After Section 2, insert:

“

## 2A Non-objection process

**2A.1** If the *operator* gives notice under paragraph 2.3a, it must do so in writing.

**2A.2** In the notice, the *operator* must set out:

- a. the additional functionality
- b. why it considers it appropriate to include the additional functionality
- c. details of its consultation in relation to including the additional functionality (including on the implications for competition, innovation, service-users and the development of the *New Payments Architecture*), including the responses and its consideration of them
- d. information not covered by sub-paragraphs (a) to (c) that it considers will assist the *Payment Systems Regulator*, in particular information relevant to the matters set out in paragraph 2A.4

**2A.3** The *Payment Systems Regulator* may:

- a. waive the requirement for the *operator* to provide any of the material mentioned in paragraph 2A.2 (to any extent)
- b. require further material that it considers appropriate for the non-objection process

- 2A.4** In deciding whether to object (and whether to attach conditions to not objecting), the *Payment Systems Regulator* will take into account matters it considers relevant, including:
- a. whether the *operator* has consulted interested parties adequately, and how it has taken their views into account
  - b. the implications for competition and innovation in payment services and related services. This includes:
    1. whether the additional functionality is a temporary or long-term measure
    2. whether the *operator* has given sufficient consideration to other ways of achieving similar user outcomes
    3. the implications for competition between *payment systems*
  - c. the implications for system resilience and risks, including those relating to any foreseen or planned migration of payments from other *payment systems*
  - d. the implications for service users including consumers and businesses, including any costs of the additional functionality
  - e. the implications for the timetable for the award of the contract and the delivery of the *New Payments Architecture*
  - f. the benefits of the additional functionality being included in the contract that will apply on the date set out in paragraph 2.1
  - g. the implications for the *operator's* ability to comply with all its obligations under this Specific Direction 3

**2A.5** The *Payment Systems Regulator* will notify the operator in writing whether or not it objects.

**2A.6** The *Payment Systems Regulator* may attach conditions to a notification that it is not objecting (for example, that only certain additional functionality may be included in the contract)."

**3.6** In paragraph 3.1:

- a. For "Each report must include", substitute, "Each report must, as a minimum, include"
- b. In sub-paragraph (c), omit, ", including the *operator's* plans in relation to any application it may make in accordance with Section 4"

c. After sub-paragraph (c) insert:

“d. A description of the *operator’s* progress in relation to paragraph 2.3a.

e. Information about any plan to give notice under paragraph 2A.1.”

**3.7** For paragraph 3.2, substitute:

**“3.2** In respect of a report required under paragraph 3.1, the *Payment Systems Regulator* may:

- a. add to the matters that the *operator* must include in the report
- b. remove the requirement to cover any particular matter in the report
- c. suspend the requirement on the *operator* to provide a report, either for a specified period or indefinitely
- d. change the frequency of the reports
- e. require the *operator* to submit a report on, or before, a different date

It will notify the *operator* of any of these changes in writing.

**3.3** A change made under paragraph 3.2(a) or (b) can apply to a specific report or for an indefinite period.

**3.4** The *operator* must submit a report on or before 31 March, 30 June, 30 September and 31 December each year. The first report is due on 31 March 2022. This reporting requirement applies until the *Payment Systems Regulator* notifies the *operator* in writing that it has ended.

**3.5** The *Payment Systems Regulator* may publish a report, or require the *operator* to publish it. The *operator* must comply with any deadline that the *Payment Systems Regulator* sets for this.

**3.6** The *Payment Systems Regulator* will take account of issues around confidentiality in deciding what should be published. In particular, it may require the *operator* to provide a version of the report that excludes confidential information for publication.”

**3.8** Omit section 4 (Application to the *Payment Systems Regulator* to extend the date for compliance for transitional arrangement in relation to the *New Payments Architecture*).

**3.9** For paragraph 5.1(b), substitute “the steps which the *operator* is taking, or proposing to take, to mitigate any risks arising from its non-compliance”.

**3.10** In the table in paragraph 9.5:

- a. in the definition of “central infrastructure”, after “FPS” insert “(or a system that forms part of the New Payments Architecture)”
- b. after the definition of “ISO 20022 messaging standard” insert:

---

<i>“Minimum scope</i>	the services and system functionality needed to process <i>single push payments</i> ”
-----------------------	---------------------------------------------------------------------------------------

---

- c. at the end, insert:

---

<i>“Single push payment</i>	A payment that is initiated by or on behalf of the payer where both submission to and output from the <i>central infrastructure</i> happens on the same day using single payment messages. It can be an immediate payment or any other same-day payment, including a diarised payment”
-----------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

---

## 4 Application of Specific Direction 3a

**4.1** This specific direction applies to the operator of FPS.

## 5 Commencement

**5.1** This specific direction comes into force on [date].

**5.2** It continues in force until the PSR revokes it.

## 6 Citation

**6.1** This specific direction may be cited as Specific Direction 3a varying Specific Direction 3 (Procurement: FPS).

**Made on [date]**

**Chris Hemsley  
Managing Director,  
The Payment Systems Regulator Limited**



PUB REF: CP21/8 Annexes 3 and 4

© The Payment Systems Regulator Limited 2021  
12 Endeavour Square  
London E20 1JN  
Telephone: 0300 456 3677  
Website: [www.psr.org.uk](http://www.psr.org.uk)

All rights reserved