FINANCIAL CONDUCT AUTHORITY
PAYMENT SYSTEMS REGULATOR

Payment Systems Regulator
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To: [Scheme name]

By email

19 November 2015

Dear all,

Information request from the Payment Systems Regulator (PSR) to [Scheme name] in relation to the EU Interchange Fee Regulation

For purposes associated with the EU Interchange Fee Regulation (IFR), the PSR is gathering information on the UK domestic transactions made under the [scheme name] scheme. The information requested will be used by the PSR to calculate the market share of three-party schemes that may be exempted from the IFR interchange fee caps on UK domestic card transactions.

Subject to the timely receipt of the necessary information we intend to publish a provisional view by 9 December 2015.

Annex 1 to this letter explains the background to this information request.

Annex 2 includes the Question applicable to your scheme, as well as the relevant definitions to be used in preparing your response.

The Payment Card Interchange Fee Regulations 2015

The Payment Card Interchange Fee Regulations 2015[1] (the Regulations) provide that on 9 December 2015 the PSR will be given new statutory powers in connection with our role of monitoring and enforcing the IFR in the UK.

These new powers will enable us to exercise formal information gathering powers in connection with our IFR functions, and we will be able to take action (equivalent to section 90 of the Financial Services (Banking Reform) Act 2013 (FSBRA)) to enforce information requests. We would also be required to treat the information we receive under the FSBRA disclosure provisions (sections 91 to 95).

[1] http://www.legislation.gov.uk/uksi/2015/1911/contents/made

We will treat the information we receive in response to this request as if it were gathered under our powers under the Regulations, and accordingly the FSBRA provisions on disclosure of information (see sections 91 to 95 FSBRA) will apply to it.

Confidentiality and accuracy of information

Please ensure that you properly mark any information which you consider to be confidential in your response. We may ask you to explain any claims of confidentiality which you make, in particular blanket claims of confidentiality.

Your response should be accompanied by the following declaration by an officer of the company:

"All information and evidence provided in this submission to the PSR is, to the best of my knowledge and belief, true and accurate.

Signed: [ ]
Position in the company: [ ]
Date: [ ]"

Next steps and how to respond

Please provide the information requested by **3 December 2015.**

Your response should be sent by email to cards@psr.org.uk.

How to contact us about this information request

Please contact us without delay if you think that you may have any problems in providing this information by the deadline.

Please also contact us if upon reading the questions below you find that there are some points which are unclear to you or which you wish to discuss with us before preparing or submitting your response.

If you wish to contact us about this information request, please telephone **[named PSR contact]** or email the PSR cards team at cards@psr.org.uk.

Yours sincerely,

Annex 1 – Background and market share calculation

On 29 April 2015, the European Parliament and the Council of the European Union adopted the Interchange Fee Regulation (IFR), which was published in the Official Journal of the European Union on 19 May 2015.

The IFR requires each Member State to appoint one or more competent authorities that will be empowered to enforce the IFR. HM Treasury ('the Treasury') has decided that the PSR will be the main competent authority in the UK. The Statutory Instrument giving the PSR its powers to monitor and enforce compliance with the IFR (known as the Payment Card Interchange Fee Regulations 2015) will enter into force on 9 December.[2]

Some IFR provisions enter into force on 9 December, including caps on interchange fees for credit and debit card transactions.

Exemption from interchange fee caps

Under Article 1(5) of the IFR Member States have discretion to grant a time-limited exemption from domestic interchange fee caps to three-party schemes which:

- operate with licensee issuers and/or acquirers or
- issue cards with a co-branding partner or through an agent

The Treasury has decided[3] to exercise this option. To qualify for the exemption, the value of a scheme's annual transactions must be less than 3% of all card-based transactions in the UK. This means transactions where the issuer, acquirer and merchant are all located in the UK.[4]

The Treasury stated publicly in its consultation response that this calculation would be for the PSR to undertake:[5]

> *"The PSR will gather the information and undertake an assessment of whether a three party scheme* operating *with licensees exceeds a 3% share of the market. If a three party scheme which licenses moves over this threshold, they will be subject to the interchange fee caps."*

[2] See: http://www.legislation.gov.uk/uksi/2015/1911/contents/made
[3] HM Treasury (2015), "Interchange fee regulation: consultation response", page 7
[4] See the definitions of "domestic" and "cross-border" transactions in Article 2 of the IFR
[5] HM Treasury (2015), "Interchange fee regulation: consultation response", page 7

The market share calculation

As set out in Article 1(5) of the IFR, the market share calculation should be based on transaction value rather than volume. This means that we will look at the total value of purchases made on cards rather than the number of card purchase transactions.

The calculation includes a numerator (X) and a denominator (Y), with the market share being expressed as X as a percentage of Y. Below, we illustrate the elements of each and explain why we consider they are included.

X as a percentage of Y:

Where X = Value of all card-based payment transactions made under an exemptible three-party scheme in the UK

Where Y = Value of all card-based payment transactions made in the UK

Term	Explanation
value	The amount of all transactions (i.e. the monetary amount of all items purchased).
card-based	A card-based payment transaction is "*a service based on a payment scheme's infrastructure and business rules to make a payment transaction by means of any card, telecommunication, digital or IT device or software if this results in a debit or credit card transaction*" (see Article 2(7)). It includes, for example, both physical and virtual cards and the use of mobile wallets and tokenisation. All card types are included in this definition, whether 'pay later' or 'pay now' cards. For the avoidance of doubt, this includes credit, charge, deferred debit, immediate debit and prepaid cards. Moreover, both consumer cards and commercial cards are included in the definition. The market share calculation described in Article 1(5) refers to '*card-based payment transactions*'. Therefore, for the purposes of the Article 1(5) exemption test, the market share calculation: • includes transactions based on both consumer and commercial cards; and • includes transactions based on credit, charge, deferred debit, immediate debit and prepaid cards.

payment transactions	Card transactions that result in the transfer of funds from the payer (the cardholder) to the payee (the merchant). The IFR does not apply to cash withdrawals at an ATM or at the counter of a PSP. However, the IFR does apply to the purchase of cash from a merchant (for example, buying foreign currency at a *bureau de change*, or getting cashback when buying groceries at a supermarket).
exemptible three-party scheme	Article 1(5) states that "*when a three party payment card scheme licenses other payment service providers for the issuance of card-based payment instruments or the acquiring of card-based payment transactions, or both, or issues card-based payment instruments with a co-branding partner or through an agent, it is considered to be a four party payment card scheme"*. Article 1(5) also tells us that "*in relation to domestic payment transactions, such a three-party payment card scheme may be exempted […]*" An exemptible three-party scheme is one that is capable of handling UK domestic card payment transactions that involve three **or** four parties, viewed in its totality. This means a scheme which carries on direct issuing and acquiring activity **and** has granted licences to issuers and/or acquirers, or issues cards with a co-branding partner or through an agent. We do not consider that it is appropriate to look at the system more narrowly than this (e.g. by only examining transactions on cards issued by licensee issuers which necessarily involve four parties rather than three). This is because Article 1(5) says that it is the scheme that may be exempted, not the arrangements between the scheme and its licensees.
in the UK	For a transaction to be made 'in the UK', it must be a UK domestic transaction as defined under the IFR. This means that the issuing entity, the acquiring entity and the merchant must be located in the UK. Where one or more of these parties is located outside of the UK, the transaction is not made 'in the UK'. Where one or more of those parties is located elsewhere in the EU, such a transaction would be made 'in the EU' but it would not be relevant for the purposes of the UK market share calculation. UK means the United Kingdom of Great Britain and Northern Ireland.

Annex 2 – Question and Explanations

Question Please provide data on the total value of all card-based payment transactions made under the **[Scheme name]** scheme in the UK for the period 9 September 2014 to 8 September 2015 inclusive.

Explanations

Value: the £GBP amount of all transactions (i.e. the monetary amount of all goods/services purchased). The purchase of goods/services includes the purchase of cash (for example, buying foreign currency at a *bureau de change* or receiving cash-back when buying groceries at a supermarket).

Card-based payment transaction*:* a service based on a payment card scheme's infrastructure and business rules to make a payment transaction by means of any card, telecommunication, digital or IT device or software if this results in a debit or credit card transaction (as per Article 2(7) of the IFR). Card-based payment transactions can be made using any card-based payment instrument, including a card, mobile phone, computer or any other technological device containing the appropriate payment application which results in a card or card-based payment transaction (which is not a credit transfer or direct debit as defined by Article 2 of Regulation (EU) No 260/2012). Examples of card-based payment instruments therefore include:

- Traditional plastic cards containing magnetic signature strips, chips and/or contactless (near-field communication) technology
- Contactless fobs, stickers, and any other wearables containing contactless technology (e.g. wristbands, jewellery) etc.
- Non-physical 'virtual' cards (effectively the BIN number and other card details which would otherwise be printed or embossed on a plastic card)
- Cards or card details stored by any means on mobile or other personal devices, including loaded in to 'virtual wallets', or stored remotely in any database or information storage system (or 'cloud') associated with such devices whereby a card transaction can be effected by contactless technology, by tokenisation, through the use of applications ('apps') or by other technological processes.

A card-based payment transaction is one which results in the transfer of funds from the payer (the cardholder) to the payee (the merchant). The purchase of cash is to be treated as a card-based payment transaction (see further the definition of 'value' above).

In responding to the question, data for all card-based payment transactions should be included, irrespective of whether the card type is a 'pay now' or 'pay later' product. Data should therefore be provided for transactions on credit, charge, deferred debit, immediate debit and pre-paid cards.

Data should be provided for transactions on both consumer and commercial cards.

Made under the [scheme name] scheme: Transactions on cards carrying the scheme brand and governed by the scheme's rules, irrespective of the identity of the issuer and the acquirer. <u>Transactions where the issuer and the acquirer are the same entity, and transactions where the issuer and the acquirer are separate entities, are both to be counted</u>, although in all cases the value of the transaction is only to be counted once.

In the UK: UK domestic transactions as defined by the IFR. This means those card transactions where each of the card issuer (the cardholder's payment service provider), the acquirer (the merchant's payment service provider) and the merchant are located in the United Kingdom. Transactions may or may not involve the physical presence of the cardholder at a point of sale (i.e. physical point of sale transactions, mail order, telephone order and e-commerce transactions are all to be included, as long as each of the issuer, acquirer and merchant are located in the UK).