

The PSR's Compliance Monitoring Framework

February 2025

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1 Introduction

- 1.1** The aim of our regulation is to serve the public interest by improving the way UK payment systems work and how firms conduct their business, ensuring competition and innovation in the process. This benefits individuals, businesses, the economy and the public as a whole.
- 1.2** The Compliance Monitoring team is part of our Supervision and Compliance Monitoring division (SCM) which encompasses our Supervision, Compliance Monitoring and Enforcement teams. We are evidence and data led in our approach to ensure that we are proportionate and risk based in our regulation. The Compliance Monitoring team engages with firms to understand whether they are complying with our directions and regulations. Where we find potential concerns, normally we will first work with firms to improve compliance through regulatory dialogue. We take compliance with our directions and regulations very seriously and will act quickly to remedy any issues using the most appropriate tools available to us, up to and including enforcement action.
- 1.3** We add public value by enhancing trust in payment systems, improving how they operate, delivering benefits through a common approach to regulation, working to prevent negative impact to end users, and helping to put things right when they go wrong. To deliver our objectives, Parliament gave us a range of tools and independent powers to decide how best to use them.
- 1.4** This document explains why and how we monitor compliance with the PSR's payments regulations. It sets out how the Compliance Monitoring team's work is structured and covers:
- The scope of our monitoring work
 - Our approach to compliance monitoring
 - How, in practice, we will monitor the parties that the PSR regulates
 - How we will educate and engage with industry as part of our monitoring work

2 Scope

- 2.1** The Compliance Monitoring team checks whether and how regulated parties are adhering to the requirements we oversee. These include:
- our general directions, specific directions, and specific requirements
 - the UK Interchange Fee Regulation (UK IFR)
 - Regulations 61 and 103 to 105 of the Payment Services Regulations 2017
 - the designation of alternative switching schemes under the Payment Accounts Regulations 2015.
- 2.2** We have regulatory powers under the Financial Services (Banking Reform) Act 2013 (FSBRA). We also have competition powers under the Competition Act 1998 and the Enterprise Act 2002, which we exercise concurrently with the Competition and Markets Authority (CMA). We can issue requirements to different parties and take action against those who breach relevant regulations and directions.
- 2.3** There's more information on our scope and regulatory powers in our [Powers and Procedures Guidance](#).
- 2.4** The Compliance Monitoring focuses on the compliance of firms subject to the PSR's directions (directed parties) to identify potential compliance issues and address them directly.
- 2.5** We work closely with but separately from the PSR's Supervision Team. Our Supervision Team focuses on supervision of the Payment System Operators (PSOs) responsible for delivering the payments systems that are designated to us. Supervision involves maintaining continuous and proactive relationships with regulated PSOs to understand how they make decisions, manage risks, and achieve positive outcomes for users of payment systems. The Supervision team's approach is [here](#).
- 2.6** Supervision strengthens the effectiveness of the PSR's oversight of payment systems by setting expectations for PSOs. This is done by determining what each PSO is doing to meet those expectations and where necessary, deciding on a proportionate regulatory approach if it is falling short of those expectations.
- 2.7** The approach to compliance monitoring is therefore distinct from supervision. Monitoring by the PSR focusses on compliance with the specific directions that we have issued to financial institutions as part of regulatory interventions we have made. Therefore, for the majority of directed parties, most interaction on compliance issues will be held solely with the Compliance Monitoring team.

3 Our approach to compliance monitoring

Why we monitor

- 3.1** We monitor firms' compliance with relevant requirements to ensure these work as intended, and that the firms we monitor are acting fairly and transparently across the industry.
- 3.2** Our statutory objectives¹ underpin everything we do. In summary these are:
- to ensure that payment systems are operated and developed in a way that considers and promotes the interests of all end users
 - to promote effective competition in the markets for payment systems and services – between operators, PSPs and infrastructure providers
 - to promote the development of and innovation in payment systems, in particular the infrastructure used to operate those systems

Monitoring principles

- 3.3** Our monitoring work is informed by these principles:
- **Proportionate and risk-based:** We use data and intelligence from a wide range of sources to target areas with more potential for a negative impact on end users of payment systems. We will take action where required, while ensuring it's proportionate to the nature of the compliance failure.
 - **Acting quickly:** Where we identify a potential compliance failure which may have a negative impact on end users, we will aim to act quickly to stop it occurring and work to ensure that the firm remedies any issues to prevent similar instances recurring in future.
 - **Clear, reciprocal engagement:** We aim to be as transparent as possible about our priorities and areas of focus. If we think there may be an issue with a firm's compliance, we will normally seek to engage with it at the earliest opportunity. We expect firms to be open and transparent with us and tell us about potential compliance failures. Firms' cooperation with us will affect how we determine the most appropriate course of action when it comes to monitoring and enforcement.

¹ Further details of the PSR's objectives and strategy can be found [here](#)

Priorities and focus

- 3.4** We aim to take a proportionate and risk-based approach to monitoring. Our annual plan explains the Compliance Monitoring team's areas of focus for the year, prioritising issues with potential for significant negative impact to end users and anti-competitive behaviours. Our priorities are also tied to the wider PSR Strategy, and we will be as transparent as possible in communicating them.
- 3.5** Our annual plan and areas of focus for the Monitoring team are, however, informed by market intelligence. They may therefore change at any time if we receive intelligence to suggest that there are, for example, widespread instances of non-compliance in a specific area, or areas causing significant negative impact to end users which requires additional monitoring or investigation.

4 How we monitor

4.1 Our focus is to ensure firms are complying with the requirements we oversee. We aim to achieve this through three stages:

- **Identification and assessment:** The Compliance Monitoring team seeks information to identify whether firms are complying with our directions and other regulatory requirements, and then decides the most appropriate course of action, if any.
- **Action:** Where we identify potential non-compliance, the Compliance Monitoring team will normally engage directly with individual firms to understand the detail of the potential breach and take action where required.
- **Escalation:** The Compliance Monitoring team may escalate the cases to the Enforcement team for further investigation and potential enforcement action (subject to consideration under the PSR's Administrative Prioritisation framework). This may be the case where the Compliance Monitoring team is still concerned that the firm may be non-compliant, or where – despite action the firm has taken to address these concerns – it considers further investigation and potentially enforcement action in relation to past conduct is warranted.

Identification and assessment

4.2 Our assessment stage consists of getting information on firms we regulate on how they're complying with the relevant regulatory requirements.

4.3 The Compliance Monitoring team obtains the data, evidence, and intelligence on which it conducts its monitoring reviews through various sources, including but not limited to the following:

- **Regulatory reporting:** For some of our reporting requirements, firms must send us information regularly, while others relate to reportable events in specific circumstances. The Compliance Monitoring team analyses these reports and follows up with firms if they have any concerns. We may prioritise certain reporting requirements, which we review every year and may remove any we no longer need.
- **Direct correspondence with firms:** Firms may proactively raise a risk or issue with us under their General Direction 1 obligations or during routine correspondence with us.
- **Section 81s:** Under section 81 of FSBRA, we have the power to require any party to provide information and documents we specify, whether on demand or periodically. Section 81 notices may also require a participant in a regulated payment system to notify us if events of a specific nature occur. We will assess a firm's responses to these notices and may discuss them further with the firm.

- **Whistleblowing:** Employees and other individuals can tell us about poor practice within their firm. These whistleblowers can be a vital source of information for us. We have a responsibility to deal with cases appropriately. To make sure they are confident in reporting to us, we handle them and their information sensitively and may need to protect their identities. Further details on our Whistleblowing process and how to report your employer's practices to us are available [here](#).
- **Complaints:** We receive and review complaints from:
 - firms and employees about the conduct and practices of other firms in the industry
 - consumers or other end users of payment systems, who may choose to remain anonymous.
 - If you would like to submit a complaint, all the details are available [here](#).
- **Market intelligence:** We gather data and intelligence on the market and conduct horizon-scanning. The Compliance Monitoring team may use this information to better understand trends and practices in the market. Although this is not a formal monitoring tool, it may inform the Compliance Monitoring team's planning and priorities, or the subjects of thematic reviews.
- **Reports by skilled persons:** We may ask a firm to provide a report by a skilled person, or may appoint a skilled person to provide a report if we need to better understand or require more detailed information on a specific topic, and where particular skills or knowledge are required.
- **Continuous intelligence:** The Compliance Monitoring team will use information it gathers throughout its monitoring process to inform future decisions and changes to its approach.

4.4 It's the responsibility of each firm to prevent compliance failures, but we acknowledge that they may still occur.

4.5 If a firm becomes aware of a compliance failure, we expect it to notify us under their obligation in General Direction 1. If the firm itself isn't compliant, it must take prompt action to put things right.

Action

4.6 We have two main objectives when we learn about a potential failure to comply with our directions. We will:

- act to stop potential negative impact to end users as quickly as possible
- ensure firms have rectified the causes of any issues, and have plans in place to prevent it from occurring again.

4.7 Our engagement with firms is tailored to the specific concerns and related potential impact we see. We may respond in more than one way and act across several firms at once.

4.8 It is also worth noting that, while we aim to act quickly to address any concern around a potential non-compliance as soon as possible, this does not discount potential enforcement action at a later date if we deem it necessary.

- 4.9** Where we identify potential non-compliance through our assessments, we will generally seek to engage in a regulatory dialogue with the relevant regulated party. We will expect the firm to explain whether it has or might have a compliance failure, and if there are mitigating actions it can take.
- 4.10** If we raise concerns with a firm that a compliance failure may have occurred, we expect it to take reasonable steps to address them. This may include developing and sharing its mitigation plans with us and keeping us informed on any progress and developments.
- 4.11** We expect firms to show us a plan with a clear route to address the concerns we have identified. They should explain clearly to us what they are doing in the meantime to minimise the risk of negative impact on end users.
- 4.12** When considering whether further investigation or enforcement action is warranted (see below), we will take into account how cooperative the firm has been. We will look at how well it has engaged and communicated with us since the potential compliance failure was identified (and also with regards to historic issues), and the quality of its mitigation plans and actions.
- 4.13** Where concerns relate to potential compliance failure that appears to be widespread, and we identify thematic issues across the industry, we may issue industry-wide guidance to clarify our assessment of these concerns.

Escalation

- 4.14** If we identify material potential non-compliance that warrants further investigation and potential enforcement action (taking into account the PSR's Administrative Prioritisation Framework (APF)), the Compliance Monitoring team may escalate the issue to our Enforcement team. This may be the case not only where we are concerned that the firm continues to be non-compliant, but also where we consider that further investigation and potential enforcement action relating to past conduct is warranted. If we cannot address our concerns of non-compliance and the potential impact arising from it through regulatory dialogue, we can escalate the issue by applying for an injunction to a court. The detailed procedures are set out in section 5.124 of our [Powers and Procedures Guidance](#).
- 4.15** Generally, enforcement investigations will take place for serious or persistent instances of non-compliance, however we will assess all matters case-by-case and take the most appropriate course of action in the circumstances.
- 4.16** The PSR will have regard to several different factors, depending on the nature and facts of the specific case. For example, the primacy duty, and the factors set out in the [APF](#).

5 Engagement and education

How we communicate and engage with firms

- 5.1** Each year, we publish an annual plan which includes the areas the Compliance Monitoring team will focus on. We endeavour to be as transparent as possible with our priorities and plans and foster a culture of two-way communication with the industry.
- 5.2** We are happy to engage with regulated parties where appropriate, and expect them to notify us directly of anything we should reasonably be made aware of under the obligations outlined in [General Direction 1](#). The easiest way to contact the Compliance Monitoring team directly is by emailing us at ComplianceMonitoring@psr.org.uk.
- 5.3** We also attend several industry forums and conferences and may be able to arrange meetings if we consider it appropriate.
- 5.4** If we make material changes to our monitoring approach, we will consult with industry to feed into the process. We carefully consider all comments throughout our decision-making process.
- 5.5** Where we require information or action specifically from a regulated party, we will engage in regulatory dialogue with a named contact where possible and use email as our primary form of communication.
- 5.6** We may become aware of information about a firm through a third party – for example, through market research or a consumer complaint. When this happens, we will engage directly with the firm to verify it before we take any further action.
- 5.7** We may also issue industry-wide communications and guidance ad hoc as appropriate.

How we coordinate with other regulatory bodies

- 5.8** We have a statutory duty to coordinate with the Bank of England, Prudential Regulation Authority and Financial Conduct Authority. We also coordinate the performance of our functions under the Competition Act 1998 with the CMA and other regulators. There is more information on how we work with other regulators [here](#).

PUB REF: PS25/2

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