

Payment Systems Regulator

12 Endeavour Square
Stratford
London
E20 1JN

Tel: +44 (0)20 7066 5584

www.psr.org.uk

[Legal entity]

[Address]

cc company secretary

For the attention of: [Name of contact]

BY EMAIL

6 June 2019

IFRcompliance@psr.org.uk

Dear [name of contact],

Interchange Fee Regulation

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

The Payment Systems Regulator Limited ('PSR') is responsible for monitoring compliance with the EU Interchange Fee Regulation ('IFR') in the United Kingdom and taking enforcement action where appropriate.

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

The content of Annex A of this Notice is similar to the previous version you received in May 2018, except for the following changes.

- The definition of relevant debit/credit card transactions is now limited to only those where the currency used to calculate the amount of interchange fees payable is any of: GBP, EUR or USD.
- Also, this notice requires that transactions which apply a charity interchange fee of 0% are excluded.

Responding to the Notice

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

The Notice requires you to supply the information described in the Annex of the Notice by email to [named PSR contact] by 5pm on 18 July 2019. Please provide the information by email to IFRcompliance@psr.org.uk.

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

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

Yours sincerely,

[Named PSR manager]

Policy Manager



Payment Systems Regulator

12 Endeavour Square
Stratford, London E20 1JN

Notice of requirements to provide information

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

Interchange Fee Regulation

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

1. [Legal entity] is required to supply the information described in the attached Annex in accordance with this Notice.
2. The required information must be provided in electronic format and, to the fullest extent possible, in searchable Word/Excel/Power Point documents.
3. The required information must be provided to the PSR by e-mail to IFRcompliance@psr.org.uk by 5 p.m. on 18 July 2019.

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

Name: [Named PSR manager] Date.....

<p style="text-align: center;">Penal Notice</p> <p style="text-align: center;">If you the within-named organisation do not comply with this Notice without reasonable excuse, you may be held to be in contempt of court and imprisoned or fined.</p> <p style="text-align: center;">It is an offence if, in purported compliance with a section 81 Notice, a person gives information which either they know to be false or misleading in a material particular or they recklessly provide information which is false or misleading in a material particular.</p> <p style="text-align: center;">If you are in any doubt as to your legal position, you are advised to seek independent legal advice at the earliest opportunity.</p>
--

ANNEX A – INFORMATION TO BE PROVIDED

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

- Part 1 of the Notice requires information on gross interchange fees received by issuers and paid by acquirers on consumer debit card transactions from 1 January 2018 to 31 December 2018.
- Part 2 of the Notice requires information on gross interchange fees received by issuers and paid by acquirers on consumer credit card transactions from 1 January 2018 to 31 December 2018.

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

All terms in this Notice have the meaning set out in the IFR unless indicated otherwise. The definitions used in the IFR and referred to in this Notice should be read alongside the "Guidance on the PSR's approach as a competent authority for the EU Interchange Fee Regulation", October 2016.¹

Part 1: Information on gross interchange fees paid/received on consumer debit card transactions from 1 January 2018 to 31 December 2018

Definitions

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

- a card-based payment transaction (as defined in Article 2(7) IFR);
- carried out under the [company] payment card scheme (as defined in Article 2(16) IFR);
- involving a debit card (as defined in Article 2(33) IFR) or a prepaid card (as defined in Article 2(35) IFR);
- issued to a consumer (as defined in Article 2(3) IFR);
- where the currency used to calculate the amount of interchange fees payable is any of: GBP, EUR or USD.

Please exclude transactions to which a charity interchange fee of 0% was applied.

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

Instructions

When providing the value of transactions and interchange fees paid/received in questions 1-4 below, please provide the information broken down by all the different interchange fee rates that applied. For example, if you applied an interchange fee rate to a subset of the *relevant debit card transactions* under the [company] scheme lower than 0.2% and a 0.2% interchange fee rate for other *relevant debit card transactions*, please provide the information requested in questions 1-4 for the different interchange fee rates separately. Please also provide the value of transactions and the value of interchange fees paid/received in the currency used to calculate the amount of interchange fees payable.

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

For all of questions 1-4 below, please exclude transactions relating to refunds, chargebacks, reversals and chargeback reversals from the information provided. In addition, please provide the gross value of the interchange fees received or paid in the currency used to calculate the amount of interchange fees payable. In respect of issuers, please do not include any other payments made to the issuer by the acquirer or by [company], or deduct any payments made from the issuer to the acquirer or to [company]. Similarly, in respect of acquirers, please do not include any other payments made by the acquirer to the issuer or to [company], or deduct any payments received by the acquirer from the issuer or [company].

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

- The *relevant issuers* are:
 - the top five issuers (as defined in Article 2(2) IFR) located in the UK when issuers are ranked in descending order by the combined sterling value of *relevant debit card transactions*:
 - made using debit cards (as defined in Article 2(33) IFR) or prepaid cards (as defined in Article 2(35) IFR) that they issued to consumers (as defined in Article 2(3) IFR),
 - at points of sale (as defined in Article 2(29) IFR) located in the UK,
 - that were acquired by acquirers (as defined in Article 2(1) IFR) located in the EEA,
 - during the period under consideration (1 January 2018 – 31 December 2018);

- plus any other issuer (as defined in Article 2(2) IFR) of debit cards (as defined in Article 2(33) IFR) or prepaid cards (as defined in Article 2(35) IFR) located in the UK as selected by the PSR and notified to [company] in writing at the time this Notice is issued.
- The *relevant acquirers* are the top five acquirers (as defined in Article 2(1) IFR) located in the UK when acquirers are ranked in descending order by the combined sterling value of *relevant debit card transactions*:
 - that they acquired at points of sale (as defined in Article 2(29) IFR) located in the UK;
 - using debit cards (as defined in Article 2(33) IFR) or prepaid cards (as defined in Article 2(35) IFR) issued to consumers (as defined in Article 2(3) IFR) by issuers (as defined in Article 2(2) IFR) located in the EEA;
 - during the period under consideration (1 January 2018 – 31 December 2018).

For the purposes of determining the top five issuers located in the UK, please consolidate issuers that are part of the same corporate group by summing their *relevant debit card transactions*. You should specify which issuers you have consolidated as part of a corporate group in your response.

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

- In the event that a corporate group acquires an issuer, that issuer's *relevant debit card transactions* should be included within the corporate group's *relevant debit card transactions* from the first complete month following the official date the acquisition was completed. For example, if a corporate group acquired an issuer on 2 August 2018, that issuer's *relevant debit card transactions* would be included in the corporate group's *relevant debit card transactions* from 1 September 2018 onwards.
- In the event that an issuer that is not part of a corporate group acquires or merges with another issuer to create a new corporate group, the *relevant debit card transactions* of both issuers should be summed from the first complete month following the official date the acquisition or merger was completed. For example, if an issuer acquired or merged with another issuer to create a new corporate group on 10 September 2018, the *relevant debit card transactions* of both issuers should be summed from 1 October 2018 onwards.
- In the event that an issuer leaves a corporate group, that issuer's *relevant debit card transactions* should not be included in the corporate group's *relevant*

debit card transactions from the first complete month following the separation. For example, if an issuer left a corporate group on 15 October 2018, that issuer's *relevant debit card transactions* should not be included in the corporate group's *relevant debit card transactions* from 1 November 2018 onwards.

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

Question 1

Please provide the value of all *relevant debit card transactions* from 1 January 2018 until 31 December 2018 for the *relevant issuers* where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by issuer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

Question 2

Please provide the value of interchange fees received by the *relevant issuers* on *relevant debit card transactions* from 1 January 2018 until 31 December 2018 where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by issuer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

Question 3

Please provide the value of all *relevant debit card transactions* from 1 January 2018 until 31 December 2018 for the *relevant acquirers* where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

Question 4

Please provide the value of interchange fees paid by the *relevant acquirers* on *relevant debit card transactions* from 1 January 2018 until 31 December 2018 where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

Part 2: Information on gross interchange fees paid/received on consumer credit card transactions from 1 January 2018 to 31 December 2018*Definitions*

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

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

- where the currency used to calculate the amount of interchange fees payable is any of: GBP, EUR or USD.

Please exclude transactions to which a charity interchange fee of 0% was applied.

Instructions

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

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

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

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

- The *relevant issuers* are:
 - the top five issuers (as defined in Article 2(2) IFR) located in the UK when issuers are ranked in descending order by the combined sterling value of *relevant credit card transactions*:
 - made using credit cards (as defined in Article 2(34) IFR) that they issued to consumers (as defined in Article 2(3) IFR),
 - at points of sale (as defined in Article 2(29) IFR) located in the UK,
 - that were acquired by acquirers (as defined in Article 2(1) IFR) located in the EEA,

- during the period under consideration (1 January 2018 – 31 December 2018);
- plus any other issuer (as defined in Article 2(2) IFR) of credit cards (as defined in Article 2(34) IFR) located in the UK as selected by the PSR and notified to [company] in writing at the time this Notice is issued.
- The *relevant acquirers* are the top five acquirers (as defined in Article 2(1) IFR) located in the UK when acquirers are ranked in descending order by the combined sterling value of *relevant credit card transactions*:
 - that they acquired at points of sale (as defined in Article 2(29) IFR) located in the UK;
 - using credit cards (as defined in Article 2(34) IFR) issued to consumers (as defined in Article 2(3) IFR) by issuers (as defined in Article 2(2) IFR) located in the EEA;
 - during the period under consideration (1 January 2018 – 31 December 2018).

For the purposes of determining the top five issuers located in the UK, please consolidate issuers that are part of the same corporate group by summing their *relevant credit card transactions*. You should specify which issuers you have consolidated as part of a corporate group in your response.

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

- In the event that a corporate group acquires an issuer, that issuer's *relevant credit card transactions* should be included within the corporate group's *relevant credit card transactions* from the first complete month following the official date the acquisition was completed. For example, if a corporate group acquired an issuer on 2 August 2018, that issuer's *relevant credit card transactions* would be included in the corporate group's *relevant credit card transactions* from 1 September 2018 onwards.
- In the event that an issuer that is not part of a corporate group acquires or merges with another issuer to create a new corporate group, the *relevant credit card transactions* of both issuers should be summed from the first complete month following the official date the acquisition or merger was completed. For example, if an issuer acquired or merged with another issuer to create a new corporate group on 10 September 2018, the *relevant credit card transactions* of both issuers should be summed from 1 October 2018 onwards.

- In the event that an issuer leaves a corporate group, that issuer's *relevant credit card transactions* should not be included in the corporate group's *relevant credit card transactions* from the first complete month following the separation. For example, if an issuer left a corporate group on 15 October 2018, that issuer's *relevant credit card transactions* should not be included in the corporate group's *relevant credit card transactions* from 1 November 2018 onwards.

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

Question 5

Please provide the value of all *relevant credit card transactions* from 1 January 2018 until 31 December 2018 for the *relevant issuers* where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by issuer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

Question 6

Please provide the value of interchange fees received by the *relevant issuers* on *relevant credit card transactions* from 1 January 2018 until 31 December 2018 where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by issuer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

Question 7

Please provide the value of all *relevant credit card transactions* from 1 January 2018 until 31 December 2018 for the *relevant acquirers* where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

Question 8

Please provide the value of interchange fees paid by the *relevant acquirers* on *relevant credit card transactions* from 1 January 2018 until 31 December 2018 where:

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

Please break down this information by month, by transaction type (domestic and cross-border), by acquirer, by the interchange fee rate that applied and by the currency used to calculate the amount of interchange fees payable.

Explanatory Notes

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

Enforcement and offences

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

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

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

False or misleading submissions

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

Failure to comply with the requirements under a section 81 Notice

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

Confidentiality and treatment of information

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

Providers of information should note that we will treat information received in accordance with our statutory framework (sections 91-93 FSBRA²). Therefore, we will

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

not disclose confidential information that relates to the business or affairs of any person, which we receive for the purposes of our functions under FSBRA, unless:

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

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

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

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

Interchange Fee Regulation

Sections 81 to 93 of FSBRA apply for the purposes of the Payment Systems Regulator's functions under the Interchange Fee Regulation³ and the Payment Card Interchange Fee Regulations⁴ as if references to Part 5 of FSBRA were references to the Interchange Fee Regulation and the Payment Card Interchange Fee Regulations.

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

⁴ S.I. 2015/1911