

MR15/2.4 Annex 3

Market review into the ownership and competitiveness of infrastructure provision: Remedies consultation

Annex 3: Draft specific directions

December 2016

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Draft Specific Direction 2 on competitive procurement of central infrastructure (Bacs)

1 Power exercised and purpose

- 1.1** The *Payment Systems Regulator* makes this specific direction in accordance with section 54(3) (c) (Regulatory and competition functions – directions) of the Financial Services (Banking Reform) Act 2013 (*the Act*). In accordance with section 54(3)(c) this specific direction applies to persons of a specified description.
- 1.2** The *Payment Systems Regulator* has had regard in particular to the following provisions of the Act:
- a) sections 49 to 53 (General duties of regulator)
 - b) section 62(2)(a) (Duty to consider exercise of powers under Competition Act 1998)
- 1.3** The *Payment Systems Regulator* makes this direction for the reasons set out in its Infrastructure Market Review Final Report¹ and the [Infrastructure Market Review Remedies Decision]².
- 1.4** The purpose of this specific direction is to ensure that if the *operator of Bacs* procures *central infrastructure*, it is procured in accordance with an open and transparent *tender process* based on objective criteria.

2 Application

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

3 Commencement

- 3.1** This specific direction comes into force on [DATE³].
- 3.2** This specific direction shall continue in force until such time as it is varied or revoked by the *Payment Systems Regulator*.

4 Citation

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

5 Interpretation

- 5.1** General Provisions GP2 and GP3 are incorporated into this specific direction and are to be read as a direction under section 54 of the *Act* for the purposes of this specific direction.
- 5.2** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 5.3** 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.
- 5.4** References to any statute or statutory provisions shall be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

¹ PSR MR15/2.3, *Market review into the ownership and competitiveness of infrastructure provision – Final Report* (July 2016).

² Reference to be inserted in final direction.

³ Date to be inserted in final direction.

5.5 In this specific direction:

Act	Means the Financial Services (Banking Reform) Act 2013
Bacs	Means the Bacs <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
Central infrastructure	Means the whole, or any part of, a package of systems and services, comprising hardware and software, provided under contract to an <i>operator</i> for the purposes of operating the relevant <i>regulated payment system</i> , including the processing of funds transfers
Central infrastructure contract	Means a contract between an <i>operator</i> and another person for the provision of <i>central infrastructure</i>
Central infrastructure provider	Means an <i>infrastructure provider</i> when providing <i>central infrastructure</i>
Cheque and Credit	Means the Cheque and Credit <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
Competitive tender	Means a process by which an <i>operator</i> invites and evaluates bids for the provision of <i>central infrastructure from two or more central infrastructure providers or potential providers</i>
Contract renewal	Means the <i>operator</i> of Bacs 1) entering into or giving effect to a <i>central infrastructure contract</i> after this specific direction is in force, or 2) taking any action, or failing to take any action, which results in an existing <i>central infrastructure contract</i> remaining in effect, including in accordance with the provisions of an existing <i>central infrastructure contract</i> , on or after 1 December 2020
Existing messaging standard	Means the Standard 18 messaging standard
Faster Payments Scheme (FPS)	Means the Faster Payments Scheme <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
First contract renewal	Means the first <i>contract renewal</i> taking place after this specific direction has come into force
Forum	The Payments Strategy Forum
Infrastructure provider	Has the meaning given by section 42(4) of the <i>Act</i>
Operator	Has the meaning given by section 42(3) of the <i>Act</i>
Payment system	Has the meaning given by section 41 of the <i>Act</i>
Payment Systems Regulator	Means the body corporate established under Part 5 of the <i>Act</i>
Potential provider	Means a person who is a <i>central infrastructure provider</i> or who, in future, has the potential to become a <i>central infrastructure provider</i>
Procurement	Means the process of entering into a contract for the acquisition, by an <i>operator</i> , of <i>central infrastructure</i> from another person chosen by that <i>operator</i>
Regulated payment system	Means a <i>payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
Subsequent contract renewal	Means a <i>contract renewal</i> after the first <i>contract renewal</i> has taken place

6 Requirement to procure

- 6.1** Subject to sections 9 and 10 below, the *operator* of *Bacs* must complete a *procurement* in accordance with paragraph 6.3 before undertaking any contract renewal or allowing a contract renewal to occur.
- 6.2** For the avoidance of doubt, subject to sections 9 and 10, the *operator* of *Bacs* must take such action as is necessary to ensure that any existing *central infrastructure contract* is terminated on 1 December 2020, so that a contract renewal takes place only following completion of a *procurement* in accordance with paragraph 6.3.
- 6.3** The *procurement* must include the following steps:
- a) development of a strategy for the *procurement*
 - b) consultation with service-users
 - c) engagement with *potential providers*
 - d) development and execution of a process that is transparent and objective, and likely to attract two or more bids, to shortlist *potential providers* for the tender process
 - e) development and execution of a *competitive tender* based on transparent and objective criteria
 - f) selection of the *central infrastructure provider(s)* in accordance with the *competitive tender* described at e).
- 6.4** In relation to the *first contract renewal*, the *operator* of *Bacs* must ensure that any *central infrastructure contract* which is concluded as a result of the *procurement* required by paragraph 6.1 requires the *central infrastructure provider(s)* to be capable of receiving and sending all relevant messages and related functionalities (used in the payment system) in the ISO 20022 messaging standard, and where applicable also in the *existing messaging standard*.

7 Further provisions

- 7.1** The *operator* of *Bacs* must ensure that any *central infrastructure contract* it enters into does not remain in effect for a period exceeding ten years, such that a *procurement* in accordance with paragraph 6.3 (and, following this, a *contract renewal*) takes place at least once in every ten years.
- 7.2** The *operator* of *Bacs* must have regard to the work of the *Forum* in fulfilling its obligations under this Specific Direction 2, including in particular in relation to:
- a) establishing service-user needs for the system
 - b) the proposal to consolidate the person who is responsible, at DATE, for fulfilling the role of *operator* of *Bacs* with the persons responsible for fulfilling the role of *operator* for one or more other *regulated payment systems*
 - c) the proposal to implement a common messaging standard for one or more *regulated payment systems*, including *Bacs*
 - d) the proposal to develop a new payments architecture for certain regulated payment systems, known as the simplified payments platform
 - e) the likely timing of the implementation of the proposals referred to in a) to d)
- 7.3** The *operator* of *Bacs* may, where appropriate, fulfil its obligations set out in this Specific Direction 2 jointly with one or more of the *operator(s)* of *FPS* and *Cheque and Credit*.

8 Reporting requirement

8.1 The *operator of Bacs* must report to the *Payment Systems Regulator* on its work under this Specific Direction 2 in accordance with paragraph 8.2. Each report must include:

- a) A description of the *operator's* progress in relation to the steps outlined at 6.3.
- b) Evidence demonstrating that, and a description of how, each of the requirements outlined at 6.3 has been fulfilled, including:
 - i. Evidence demonstrating that, and a description of how, the operator has taken into account the results of its consultation with service-users.
 - ii. 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 7.2 has been fulfilled, including the *operator's* plans in relation to whether or not to apply for an extension of time in accordance with Section 9.

8.2 Unless otherwise specified by the *Payment Systems Regulator* in writing, the *operator of Bacs* must submit the reports required by paragraph 8.1 to the *Payment Systems Regulator* every six months, starting on [30 June 2017⁴]. The *Payment Systems Regulator* may specify that reports be submitted on particular dates, by reference to particular steps of a procurement process, or that reports may be suspended for a period of time.

8.3 The *operator of Bacs* must also submit to the *Payment Systems Regulator* a non-confidential version of the report required by paragraph 8.1 for publication.

9 Extension of time in relation to the Forum's proposed new architecture

9.1 The *operator of Bacs* may apply to the *Payment Systems Regulator* for an extension of time to comply with one or more of the obligations set out in section 6 of this Specific Direction 2 in accordance with this section 9 where, in the operator's opinion, it would not be efficient to comply with one or more of those obligations because the next *central infrastructure contract* is expected to be of short duration due to the implementation of the Forum's proposed new architecture.

9.2 Applications under paragraph 9.1 may be made no later than 31 December 2017.

9.3 Applications under paragraph 9.1 must include:

- a) The reasons for the *operator's* assessment that it would not be efficient to comply with one or more of the obligations due to the anticipated length of the next *central infrastructure contract*;
- b) The steps which the *operator* is taking, or proposes to take, in relation to securing the provision of *central infrastructure* absent full compliance with this Specific Direction 2 and the operator's assessment of how these steps will achieve an outcome that will promote the interests of service-users; and
- c) Whether, and when, the *operator* expects that it, or another *operator of Bacs*, will comply with all of its obligations under this Specific Direction 2.

9.4 The *Payment Systems Regulator* may reject an application or approve it in whole, or in part, and may make such approval subject to compliance with any conditions.

⁴ To be confirmed following this consultation.

10 Exemption for unforeseen circumstances

- 10.1** The *operator of Bacs* may apply to the *Payment Systems Regulator* for an exemption from the duty to comply with one or more of the obligations set out in this Specific Direction 2. Such applications must include:
- a) The exceptional circumstances which the *operator* maintains justify the application;
 - b) The steps which the *operator* is taking in relation to securing the provision of central infrastructure services absent full compliance with this Specific Direction 2; and
 - c) Whether, and when, the operator expects to recommence compliance with all of its obligations under this Specific Direction 2.
- 10.2** The *Payment Systems Regulator* may reject an application or approve it in whole, or in part, and may make such approval subject to compliance with any conditions.

MR15/2.4 Annex 3

Draft Specific Direction 3 on competitive procurement of central infrastructure (FPS)

1 Power exercised and purpose

- 1.1** The *Payment Systems Regulator* makes this specific direction in accordance with section 54(3) (c) (Regulatory and competition functions – directions) of the Financial Services (Banking Reform) Act 2013 (*the Act*). In accordance with section 54(3)(c) this specific direction applies to persons of a specified description.
- 1.2** The *Payment Systems Regulator* has had regard in particular to the following provisions of the Act:
- a) sections 49 to 53 (General duties of regulator)
 - b) section 62(2)(a) (Duty to consider exercise of powers under Competition Act 1998)
- 1.3** The *Payment Systems Regulator* makes this direction for the reasons set out in its Infrastructure Market Review Final Report¹ and the [Infrastructure Market Review Remedies Decision]².
- 1.4** The purpose of this specific direction is to ensure that if the *operator of Faster Payments Scheme (FPS)* procures *central infrastructure*, it is procured in accordance with an open and transparent *tender process* based on objective criteria.

2 Application

- 2.1** This specific direction applies to the *operator of FPS*.

3 Commencement

- 3.1** This specific direction comes into force on [DATE³].
- 3.2** This specific direction shall continue in force until such time as it is varied or revoked by the *Payment Systems Regulator*.

4 Citation

- 4.1** This specific direction may be cited as Specific Direction 3 (Procurement: FPS).

5 Interpretation

- 5.1** General Provisions GP2 and GP3 are incorporated into this specific direction and are to be read as a direction under section 54 of the *Act* for the purposes of this specific direction.
- 5.2** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 5.3** 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.
- 5.4** References to any statute or statutory provisions shall be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

¹ PSR MR15/2.3, *Market review into the ownership and competitiveness of infrastructure provision – Final Report* (July 2016).

² Reference to be inserted in final direction.

³ Date to be inserted in final direction.

5.5 In this specific direction:

Act	Means the Financial Services (Banking Reform) Act 2013
Bacs	Means the Bacs <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
Central infrastructure	Means the whole, or any part of, a package of systems and services, comprising hardware and software, provided under contract to an <i>operator</i> for the purposes of operating the relevant <i>regulated payment system</i> , including the processing of funds transfers
Central infrastructure contract	Means a contract between an <i>operator</i> and another person for the provision of <i>central infrastructure</i>
Central infrastructure provider	Means an <i>infrastructure provider</i> when providing <i>central infrastructure</i>
Cheque and Credit	Means the Cheque and Credit <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
Competitive tender	Means a process by which an <i>operator</i> invites and evaluates bids for the provision of <i>central infrastructure from two or more central infrastructure providers or potential providers</i>
Contract renewal	Means the <i>operator</i> of FPS 1) entering into or giving effect to a <i>central infrastructure contract</i> after this specific direction is in force, or 2) taking any action, or failing to take any action, which results in an existing <i>central infrastructure contract</i> remaining in effect, including in accordance with the provisions of an existing <i>central infrastructure contract</i> , on or after 30 June 2020
Existing messaging standard	Means the Faster Payments Scheme's implementation of the ISO 8583 messaging standard, plus its use of Standard 18 for Direct Corporate Access submissions
Faster Payments Scheme (FPS)	Means the Faster Payments Scheme <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
First contract renewal	Means the first <i>contract renewal</i> taking place after this specific direction has come into force
Forum	The Payments Strategy Forum
Infrastructure provider	Has the meaning given by section 42(4) of the <i>Act</i>
Operator	Has the meaning given by section 42(3) of the <i>Act</i>
Payment system	Has the meaning given by section 41 of the <i>Act</i>
Payment Systems Regulator	Means the body corporate established under Part 5 of the <i>Act</i>
Potential provider	Means a person who is a <i>central infrastructure provider</i> or who, in future, has the potential to become a <i>central infrastructure provider</i>
Procurement	Means the process of entering into a contract for the acquisition, by an <i>operator</i> , of <i>central infrastructure</i> from another person chosen by that <i>operator</i>
Regulated payment system	Means a <i>payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
Subsequent contract renewal	Means a <i>contract renewal</i> after the first <i>contract renewal</i> has taken place

6 Requirement to procure

- 6.1** Subject to sections 9 and 10 below, the *operator* of *FPS* must complete a *procurement* in accordance with paragraph 6.3 before undertaking any contract renewal or allowing a contract renewal to occur.
- 6.2** For the avoidance of doubt, subject to sections 9 and 10, the *operator* of *FPS* must take such action as is necessary to ensure that any existing *central infrastructure contract* is terminated on 30 June 2020, so that a contract renewal takes place only following completion of a *procurement* in accordance with paragraph 6.3.
- 6.3** The *procurement* must include the following steps:
- a) development of a strategy for the *procurement*
 - b) consultation with service-users
 - c) engagement with *potential providers*
 - d) development and execution of a process that is transparent and objective, and likely to attract two or more bids, to shortlist *potential providers* for the tender process
 - e) development and execution of a *competitive tender* based on transparent and objective criteria
 - f) selection of the *central infrastructure provider(s)* in accordance with the *competitive tender* described at e).
- 6.4** In relation to the *first contract renewal*, the *operator* of *FPS* must ensure that any *central infrastructure contract* which is concluded as a result of the *procurement* required by paragraph 6.1 requires the *central infrastructure provider(s)* to be capable of receiving and sending all relevant messages and related functionalities (used in the payment system) in the ISO 20022 messaging standard, and, where applicable, also in the *existing messaging standard*.

7 Further provisions

- 7.1** The *operator* of *FPS* must ensure that any *central infrastructure contract* it enters into does not remain in effect for a period exceeding ten years, such that a *procurement* in accordance with paragraph 6.3 (and, following this, a *contract renewal*) takes place at least once in every ten years.
- 7.2** The *operator* of *FPS* must have regard to the work of the *Forum* in fulfilling its obligations under this Specific Direction 3, including in particular in relation to:
- a) establishing service-user needs for the system
 - b) the proposal to consolidate the person who is responsible, at DATE, for fulfilling the role of *operator* of *FPS* with the persons responsible for fulfilling the role of *operator* for one or more other *regulated payment systems*
 - c) the proposal to implement a common messaging standard for one or more *regulated payment systems*, including *FPS*
 - d) the proposal to develop a new payments architecture for certain *regulated payment systems*, known as the simplified payments platform
 - e) the likely timing of the implementation of the proposals referred to in a) to d)
- 7.3** The *operator* of *FPS* may, where appropriate, fulfil its obligations set out in this Specific Direction 3 jointly with one or more of the *operator(s)* of *Bacs* and *Cheque and Credit*.

8 Reporting requirement

- 8.1** The *operator of FPS* must report to the *Payment Systems Regulator* on its work under this Specific Direction 3 in accordance with paragraph 8.2. Each report must include:
- a) A description of the *operator's* progress in relation to the steps outlined at 6.3.
 - b) Evidence demonstrating that, and a description of how, each of the requirements outlined at 6.3 has been fulfilled, including:
 - i. Evidence demonstrating that, and a description of how, the operator has taken into account the results of its consultation with service-users.
 - ii. 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 7.2 has been fulfilled, including the *operator's* plans in relation to whether or not to apply for an extension of time in accordance with Section 9.
- 8.2** Unless otherwise specified by the *Payment Systems Regulator* in writing, the *operator of FPS* must submit the reports required by paragraph 8.1 to the *Payment Systems Regulator* every six months, starting on [30 June 2017⁴]. The *Payment Systems Regulator* may specify that reports be submitted on particular dates, by reference to particular steps of a procurement process, or that reports may be suspended for a period of time.
- 8.3** The *operator of FPS* must also submit to the *Payment Systems Regulator* a non-confidential version of the report required by paragraph 8.1 for publication.

9 Extension of time in relation to the Forum's proposed new architecture

- 9.1** The *operator of FPS* may apply to the *Payment Systems Regulator* for an extension of time to comply with one or more of the obligations set out in section 6 of this Specific Direction 3 in accordance with this section 9 where, in the operator's opinion, it would not be efficient to comply with one or more of those obligations because the next *central infrastructure contract* is expected to be of short duration due to the implementation of the Forum's proposed new architecture.
- 9.2** Applications under paragraph 9.1 may be made no later than 31 December 2017.
- 9.3** Applications under paragraph 9.1 must include:
- a) The reasons for the *operator's* assessment that it would not be efficient to comply with one or more of the obligations due to the anticipated length of the next *central infrastructure contract*;
 - b) The steps which the *operator* is taking, or proposes to take, in relation to securing the provision of *central infrastructure* absent full compliance with this Specific Direction 3 and the operator's assessment of how these steps will achieve an outcome that will promote the interests of service-users; and
 - c) Whether, and when, the *operator* expects that it, or another *operator of FPS*, will comply with all of its obligations under this Specific Direction 3.
- 9.4** The *Payment Systems Regulator* may reject an application or approve it in whole, or in part, and may make such approval subject to compliance with any conditions.

⁴ To be confirmed following this consultation.

10 Exemption for unforeseen circumstances

- 10.1** The *operator of FPS* may apply to the *Payment Systems Regulator* for an exemption from the duty to comply with one or more of the obligations set out in this Specific Direction 3. Such applications must include:
- a) The exceptional circumstances which the *operator* maintains justify the application;
 - b) The steps which the *operator* is taking in relation to securing the provision of central infrastructure services absent full compliance with this Specific Direction 3; and
 - c) Whether, and when, the operator expects to recommence compliance with all of its obligations under this Specific Direction 3.
- 10.2** The *Payment Systems Regulator* may reject an application or approve it in whole, or in part, and may make such approval subject to compliance with any conditions.

MR15/2.4 Annex 3

Draft Specific Direction 4 on competitive procurement of central infrastructure (LINK)

1 Power exercised and purpose

- 1.1** The *Payment Systems Regulator* makes this specific direction in accordance with section 54(3) (c) (Regulatory and competition functions – directions) of the Financial Services (Banking Reform) Act 2013 (*the Act*). In accordance with section 54(3)(c) this specific direction applies to persons of a specified description.
- 1.2** The *Payment Systems Regulator* has had regard in particular to the following provisions of the Act:
- a) sections 49 to 53 (General duties of regulator)
 - b) section 62(2)(a) (Duty to consider exercise of powers under Competition Act 1998)
- 1.3** The *Payment Systems Regulator* makes this direction for the reasons set out in its Infrastructure Market Review Final Report¹ and the [Infrastructure Market Review Remedies Decision]².
- 1.4** The purpose of this specific direction is to ensure that if the *operator* of *LINK* procures *central infrastructure*, it is procured in accordance with an open and transparent *tender process* based on objective criteria.

2 Application

- 2.1** This specific direction applies to the *operator* of *LINK*.

3 Commencement

- 3.1** This specific direction comes into force on [DATE³].
- 3.2** This specific direction shall continue in force until such time as it is varied or revoked by the *Payment Systems Regulator*.

4 Citation

- 4.1** This specific direction may be cited as Specific Direction 4 (Procurement: LINK).

5 Interpretation

- 5.1** General Provisions GP2 and GP3 are incorporated into this specific direction and are to be read as a direction under section 54 of the *Act* for the purposes of this specific direction.
- 5.2** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 5.3** 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.
- 5.4** References to any statute or statutory provisions shall be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

¹ PSR MR15/2.3, *Market review into the ownership and competitiveness of infrastructure provision – Final Report* (July 2016).

² Reference to be inserted in final direction.

³ Date to be inserted in final direction.

5.5 In this specific direction:

Act	Means the Financial Services (Banking Reform) Act 2013
Central infrastructure	Means the whole, or any part of, a package of systems and services, comprising hardware and software, provided under contract to an <i>operator</i> for the purposes of operating the relevant regulated <i>payment system</i> , including the processing of funds transfers
Central infrastructure contract	Means a contract between an <i>operator</i> and another person for the provision of <i>central infrastructure</i>
Central infrastructure provider	Means an <i>infrastructure provider</i> when providing <i>central infrastructure</i>
Cheque and Credit	Means the Cheque and Credit <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
Competitive tender	Means a process by which an <i>operator</i> invites and evaluates bids for the provision of <i>central infrastructure</i> from two or more <i>central infrastructure providers</i> or <i>potential providers</i>
Contract renewal	Means the <i>operator</i> of <i>LINK</i> 1) entering into or giving effect to a <i>central infrastructure contract</i> after this specific direction is in force, or 2) taking any action, or failing to take any action, which results in an existing <i>central infrastructure contract</i> remaining in effect, including in accordance with the provisions of an existing <i>central infrastructure contract</i> , on or after 21 April 2021
Infrastructure provider	Has the meaning given by section 42(4) of the Act
LINK	Means the <i>LINK regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
Operator	Has the meaning given by section 42(3) of the Act
Payment system	Has the meaning given by section 41 of the Act
Payment Systems Regulator	Means the body corporate established under Part 5 of the Act
Potential provider	Means a person who is a <i>central infrastructure provider</i> or who, in future, has the potential to become a <i>central infrastructure provider</i>
Procurement	Means the process of entering into a contract for the acquisition, by an <i>operator</i> , of <i>central infrastructure</i> from another person chosen by that <i>operator</i>
Regulated payment system	Means a <i>payment system</i> designated by HM Treasury under section 43 of the Act in March 2015

6 Requirement to procure

- 6.1** Subject to section 8, the *operator* of *LINK* must complete a *procurement* in accordance with paragraph 6.3 before undertaking any contract renewal or allowing a contract renewal to occur.
- 6.2** For the avoidance of doubt, subject to section 8, the *operator* of *LINK* must take such action as is necessary to ensure that any existing *central infrastructure contract* is terminated on 21 April 2021, so that a contract renewal takes place only following completion of a *procurement* in accordance with paragraph 6.3.
- 6.3** The *procurement* must include the following steps:
- a) development of a strategy for the *procurement*
 - b) consultation with service-users
 - c) engagement with *potential providers*
 - d) development and execution of a process that is transparent and objective, and likely to attract two or more bids, to shortlist *potential providers* for the tender process
 - e) development and execution of a *competitive tender* based on transparent and objective criteria
 - f) selection of the *central infrastructure provider(s)* in accordance with the *competitive tender* described at e)
- 6.4** The *operator* of *LINK* must ensure that any *central infrastructure contract* it enters into does not remain in effect for a period exceeding ten years, such that a *procurement* in accordance with paragraph 6.3 (and, following this, a *contract renewal*) takes place at least once in every ten years.

7 Reporting requirement

- 7.1** The *operator* of *LINK* must report to the *Payment Systems Regulator* on its work under this Specific Direction 4 in accordance with paragraph 7.2. Each report must include:
- a) A description of the *operator's* progress in relation to the steps outlined at 6.3.
 - b) Evidence demonstrating that, and a description of how, each of the requirements outlined at 6.3 has been fulfilled, including:
 - i. Evidence demonstrating that, and a description of how, the operator has taken into account the results of its consultation with service-users.
 - ii. Evidence demonstrating that, and a description of how, the operator has taken into account the results of its engagement with *potential providers*.
- 7.2** Unless otherwise specified by the *Payment Systems Regulator* in writing, the *operator* of *LINK* must submit the reports required by paragraph 7.1 to the *Payment Systems Regulator* every six months, starting on [30 June 2017]. The *Payment Systems Regulator* may specify that reports be submitted on particular dates, by reference to particular steps of a procurement process, or that reports may be suspended for a period of time.
- 7.3** The *operator* of *LINK* must also submit to the *Payment Systems Regulator* a non-confidential version of the report required by paragraph 7.1 for publication.

8 Exemption for unforeseen circumstances

8.1 The *operator of LINK* may apply to the *Payment Systems Regulator* for an exemption from the duty to comply with one or more of the obligations set out in this Specific Direction 4. Such applications must include:

- a) The exceptional circumstances which the *operator* maintains justify the application;
- b) The steps which the *operator* is taking in relation to securing the provision of central infrastructure services absent full compliance with this Specific Direction 4; and
- c) Whether, and when, the operator expects to recommence compliance with all of its obligations under this Specific Direction 4.

8.2 The *Payment Systems Regulator* may reject an application or approve it in whole, or in part, and may make such approval subject to compliance with any conditions.

MR15/2.4 Annex 3

Draft Specific Direction 5 on messaging standards (FPS)

1 Power exercised and purpose

- 1.1** The *Payment Systems Regulator* makes this specific direction in accordance with section 54(3) (c) (Regulatory and competition functions – directions) of the Financial Services (Banking Reform) Act 2013 (*the Act*). In accordance with section 54(3)(c) this specific direction applies to persons of a specified description.
- 1.2** The *Payment Systems Regulator* has had regard in particular to the following provisions of the Act:
- a) sections 49 to 53 (General duties of regulator)
 - b) section 62(2)(a) (Duty to consider exercise of powers under Competition Act 1998)

The *Payment Systems Regulator* makes this direction for the reasons set out in its Infrastructure Market Review Final Report¹ and the [Infrastructure Market Review Remedies Decision]².

- 1.3** The purpose of this specific direction is to ensure that the *operator of Faster Payments Scheme (FPS)* prepares and makes available the documentation required to allow conversion between existing messaging standards and *ISO 20022*.

2 Application

- 2.1** This specific direction applies to the *operator* of FPS.

3 Commencement

- 3.1** This specific direction comes into force on [DATE³].
- 3.2** This specific direction will continue in force until such time as it is varied or revoked by the *Payment Systems Regulator*.

4 Citation

- 4.1** This specific direction may be cited as Specific Direction 5 (Messaging Standards: FPS).

5 Interpretation

- 5.1** General Provisions GP2 and GP3 are incorporated into this specific direction and are to be read as a direction under section 54 of the *Act* for the purposes of this specific direction.
- 5.2** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 5.3** 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.
- 5.4** References to any statute or statutory provisions will be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

¹ PSR MR15/2.3, *Market review into the ownership and competitiveness of infrastructure provision – Final Report* (July 2016).

² Reference to be inserted in final direction.

³ Date to be inserted in final direction.

5.5 In this specific direction:

Act	Means the Financial Services (Banking Reform) Act 2013
Existing messaging standard	Means the Faster Payments Scheme's implementation of the ISO 8583 messaging standard, plus its use of Standard 18 for Direct Corporate Access submissions
Faster Payments Scheme (FPS)	Means the Faster Payments Scheme <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
ISO 20022 messaging standard	An international financial messaging standard developed to facilitate electronic data interchange between financial institutions, and which supports interoperability between all parties in the payments process
Implementation guidelines	A set of rules and technical specifications that guide the implementation of a standard in a payment system
Operator	Has the meaning given by section 42(3) of the Act
Payment system	Has the meaning given by section 41 of the Act
Payment Systems Regulator	Means the body corporate established under Part 5 of the Act
Regulated payment system	Means a <i>payment system</i> designated by HM Treasury under section 43 of the Act in March 2015

6 Requirement to produce documentation

6.1 This Specific Direction 4 requires the *operator of FPS* to take the specific actions set out below by [31 July 2017].

6.2 The *operator of FPS* must prepare the documentation necessary (including comprehensive implementation guidelines) to convert all relevant messages and related functionalities (used in the *FPS* system) from the *existing messaging standard* into the *ISO 20022 messaging standard* and from the *ISO 20022 messaging standard* into the *existing messaging standard*. This documentation must be prepared in accordance with paragraphs 6.3 and 6.4.

6.3 The documentation required under paragraph 6.2 must include rules that unambiguously define and explain:

- a) how to extract all business-related information from the data elements in the *existing messaging standard* and move, or map, such information to the corresponding data elements in the *ISO 20022 messaging standard*, and
- b) how to extract business-related information from the data elements in the *ISO 20022 messaging standard* and move, or map, such information to corresponding data elements in the *existing messaging standard*.

Any constraints regarding the ability to map information from the *ISO 20022 messaging standard* to the *existing messaging standard* must be clearly articulated.

6.4 The *operator of FPS* must take all reasonable steps to convert relevant messages into ISO 20022 messages, including, where necessary, defining rules to convert elements of the *existing messaging standard* that are not yet defined in ISO 20022 into ISO 20022 messages, and testing the implementation of such rules to a high technical standard.

- 6.5** The *operator of FPS* must ensure that the documentation prepared in accordance with paragraph 6.2 remains accurate and up to date at all times, including adding any further information as may from time to time be required if new messages or functionalities are defined in the *existing messaging standard*.
- 6.6** The *operator of FPS* must make all documentation prepared in accordance with paragraph 6.2 available on its website and in such manner and form as from time to time specified by the *Payment Systems Regulator*.

MR15/2.4 Annex 3

Draft Specific Direction 6 on messaging standards (Bacs)

1 Power exercised and purpose

- 1.1** The *Payment Systems Regulator* makes this specific direction in accordance with section 54(3) (c) (Regulatory and competition functions – directions) of the Financial Services (Banking Reform) Act 2013 (*the Act*). In accordance with section 54(3)(c) this specific direction applies to persons of a specified description.
- 1.2** The *Payment Systems Regulator* has had regard in particular to the following provisions of the Act:
- a) sections 49 to 53 (General duties of regulator)
 - b) section 62(2)(a) (Duty to consider exercise of powers under Competition Act 1998)

The *Payment Systems Regulator* makes this direction for the reasons set out in its Infrastructure Market Review Final Report¹ and the [Infrastructure Market Review Remedies Decision]².

- 1.3** The purpose of this specific direction is to ensure that the *operator* of *Bacs* prepares and makes available the documentation required to allow conversion between existing messaging standards and *ISO 20022*.

2 Application

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

3 Commencement

- 3.1** This specific direction comes into force on [DATE³].
- 3.2** This specific direction will continue in force until such time as it is varied or revoked by the *Payment Systems Regulator*.

4 Citation

- 4.1** This specific direction may be cited as Specific Direction 6 (Messaging Standards: Bacs).

5 Interpretation

- 5.1** General Provisions GP2 and GP3 are incorporated into this specific direction and are to be read as a direction under section 54 of the *Act* for the purposes of this specific direction.
- 5.2** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 5.3** 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.
- 5.4** References to any statute or statutory provisions will be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

¹ PSR MR15/2.3, *Market review into the ownership and competitiveness of infrastructure provision – Final Report* (July 2016).

² Reference to be inserted in final direction.

³ Date to be inserted in final direction.

5.5 In this specific direction:

Act	Means the Financial Services (Banking Reform) Act 2013
Bacs	Means the Bacs <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
Existing messaging standard	Means the Standard 18 messaging standard
ISO 20022	An international financial messaging standard developed to facilitate electronic data interchange between financial institutions, and which supports interoperability between all parties in the payments process
Implementation guidelines	A set of rules and technical specifications that guide the implementation of a standard in a payment system
Operator	Has the meaning given by section 42(3) of the Act
Payment system	Has the meaning given by section 41 of the Act
Payment Systems Regulator	Means the body corporate established under Part 5 of the Act
Regulated payment system	Means a <i>payment system</i> designated by HM Treasury under section 43 of the Act in March 2015

6 Requirement to produce documentation

6.1 This Specific Direction 4 requires the *operator of Bacs* to take the specific actions set out below by [31 July 2017].

6.2 The *operator of Bacs* must prepare the documentation necessary (including comprehensive implementation guidelines) to convert all relevant messages and related functionalities (used in the Bacs system) from the *existing messaging standard* into the *ISO 20022 messaging standard* and from the *ISO 20022 messaging standard* into the *existing messaging standard*. This documentation must be prepared in accordance with paragraphs 6.3 and 6.4.

6.3 The documentation required under paragraph 6.2 must include rules that unambiguously define and explain:

- a) how to extract all business-related information from the data elements in the *existing messaging standard* and move, or map, such information to corresponding data elements in the *ISO 20022 messaging standard*, and
- b) how to extract business-related information from the data elements in the *ISO 20022 messaging standard* and move, or map, such information to corresponding data elements in the *existing messaging standard*.

Any constraints regarding the ability to map information from the *ISO 20022 messaging standard* to the *existing messaging standard* must be clearly articulated.

6.4 The *operator of Bacs* must take all reasonable steps to convert relevant messages into ISO 20022 messages, including, where necessary, defining rules to convert elements of the *existing messaging standard* that are not yet defined in ISO 20022 into ISO 20022 messages, and testing the implementation of such rules to a high technical standard.

- 6.5** The *operator of Bacs* must ensure that the documentation prepared in accordance with paragraph 6.2 remains accurate and up to date at all times, including adding any further information as may from time to time be required if new messages or functionalities are defined in the *existing messaging standard*.
- 6.6** The *operator of Bacs* must make all documentation prepared in accordance with paragraph 1.2 available on its website and in such manner and form as from time to time directed by the *Payment Systems Regulator*.

