

**CP15/44**

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# **PSR regulatory fees 2016/17**

**Consultation on how 2016/17 PSR regulatory fees will be allocated and on how we propose to calculate and collect PSR fees to fund the PSR's FSBRA and IFR functions and activities**

**December 2015**

In this consultation paper we set out our proposals for how we will allocate our 2016/17 Annual Funding Requirement across our regulated population and how we propose that the corresponding 2016/17 PSR regulatory fees be calculated and collected.

We are asking for comments on these proposals by 5.00pm on Thursday 11 February 2016. You can send your comments and responses to our consultation questions by email to [PSRfees@psr.org.uk](mailto:PSRfees@psr.org.uk). You can also respond in writing to the address below (although we ask all respondents to also provide electronic Word and PDF versions of their response).

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Fees team  
25 The North Colonnade  
Canary Wharf  
London E14 5HS  
Email: [PSRfees@psr.org.uk](mailto:PSRfees@psr.org.uk)

We may publish all non-confidential responses to our consultation paper along with our final policy statement.

We will not regard a standard confidentiality statement in an email message as a request for nondisclosure. Stakeholders who wish to claim commercial confidentiality over specific items in their response should fill in the cover sheet accordingly, and identify those specific items which they claim to be commercially confidential by **highlighting them in yellow**.

We may nonetheless be required to disclose all responses which include information marked as confidential, in order to meet legal obligations – in particular, if we are asked to disclose a confidential response under the Freedom of Information Act 2000. We will endeavour to consult you in handling such a request. Any decision we make not to disclose a response is reviewable by the Information Commissioner and the Information Rights Tribunal.

You can download this consultation paper from our website: <http://www.psr.org.uk/psr-publications/consultations>

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# 1 Overview

## Introduction

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- 1.1 This consultation paper (CP) sets out our proposed methods for allocating the PSR's Annual Funding Requirement (AFR) for 2016/17 and how we propose to calculate and collect PSR fees. The PSR regulatory fees will fund the PSR's function and activities in relation to the Financial Services (Banking Reform) Act 2013 (FSBRA), as well as in relation to a new competency of the PSR in relation to the EU Interchange Fee Regulation (IFR).<sup>1</sup>
- 1.2 For convenience, when this document refers to 'we', this means the FCA and PSR jointly, although the final decision and fees rules are made by the FCA.
- 1.3 For our FSBRA funding requirements, we propose to continue with the same allocation methodology as for the year 2015/16, namely equal allocation across regulated pan-UK payment systems, with PSR fees calculated for individual fee-payers based on relative transaction volumes (or shareholdings in the case of NICC).
- 1.4 For our IFR funding requirements, we propose a three tier approach to allocation, with the IFR card payment systems in the top tier (by scale of relevant UK transactions) being allocated an equal share of our IFR funding requirement, systems in the middle tier paying a flat fee, and a third tier, for those IFR card payment systems with a very small UK presence, being exempted from the fees. As with FSBRA, we propose that PSR fees are calculated for individual fee-payers under each IFR card payment system based on their relative transaction volumes.
- 1.5 We provide details of our proposals for FSBRA and IFR in Chapters 3 and 4 respectively.
- 1.6 The consultation period for this CP closes at 5.00pm on Thursday 11 February 2016.

## Background

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- 1.7 When money moves between individuals, businesses and Government – for example, when buying goods and services, receiving income or paying taxes – the transfers of funds are made through payment systems. Payment systems in the UK handle around 20 billion transactions worth over £74 trillion annually.
- 1.8 The Payment Systems Regulator Ltd (PSR) was incorporated on 1 April 2014 as an independent subsidiary of the Financial Conduct Authority (FCA), and became fully operational on 1 April 2015. As of that date, the PSR regulates designated payment systems operating in the UK, and has a range of regulatory powers under FSBRA, as well as concurrent competition powers under the Competition Act 1998 (CA98) and Enterprise Act 2002. The PSR has statutory objectives under FSBRA to promote competition, innovation and the interests of service users.

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<sup>1</sup> Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions, published in the Official Journal of the EU on 19 May 2015 <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0751&from=EN>

- 1.9 Since 9 December 2015, the PSR also has functions under the EU Interchange Fee Regulations 2015 (IFR) pursuant to The Payment Card Interchange Fee Regulations 2015 (the 2015 Regulations).<sup>2</sup>
- 1.10 From September 2016 we also expect to have functions relating to the regulation of alternative current account switching services under the EU Payment Accounts Directive (PAD).<sup>3</sup>
- 1.11 The year 2016/17 is the annual financial year beginning 1 April 2016 and ending 31 March 2017. For the year 2016/17, the PSR will also have costs related to its new functions under the IFR and in relation to the PAD. This consultation includes a consultation on fees relating to the PSR's IFR functions, which are collected by the FCA (as with our fees in respect of the PSR's FSBRA functions). A future consultation will include reference to fees payable in relation to the PSR's functions under PAD.

### **The Financial Services (Banking Reform) Act 2013 (FSBRA)**

- 1.12 HM Treasury (the Treasury) has designated eight payment systems for regulation by the PSR under FSBRA (with effect from 1 April 2015): Bacs, CHAPS, Cheque and Credit (C&C), Faster Payments Scheme (FPS), LINK, Northern Ireland Cheque Clearing (NICC), MasterCard, and Visa Europe (Visa) (collectively, the regulated payment systems).
- 1.13 The PSR's FSBRA activities and functions are funded entirely by the fees paid by the participants in these regulated payment systems. On 27 October 2015 we published the FCA's final decision and fees rules on how the year 2015/16 PSR fees would be calculated and collected from participants.<sup>4</sup> These fees covered the PSR's set up costs and its operational costs for 2015/16 (from 1 April 2015 to 31 March 2016) related to its FSBRA functions.

### **The EU Interchange Fee Regulation**

- 1.14 The IFR imposes obligations directly on:
- card payment schemes/systems<sup>5</sup> and their operators
  - acquirers and card issuers<sup>6</sup>
  - processing entities
  - other technical service providers
  - merchants (in limited circumstances)
- 1.15 On 9 December 2015 by virtue of the 2015 Regulations the PSR became the competent authority for the IFR with responsibility, amongst other things, for monitoring and enforcing compliance of persons on whom obligations are imposed by it. On the same day the power in the 2015 Regulations enabling fees to be raised in respect of the PSR's role as the competent authority came into effect. The remaining provisions of the IFR will enter into force on 9 June 2016.

<sup>2</sup> SI 2015/1911.

<sup>3</sup> Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, published in the Official Journal of the EU on 28 August 2014; and The Payment Accounts Regulations 2015, Draft Statutory Instrument [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/476949/20151109\\_Payment\\_Accounts\\_Regulations\\_2015-to\\_be\\_laid\\_\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476949/20151109_Payment_Accounts_Regulations_2015-to_be_laid__2_.pdf)

<sup>4</sup> PS15/25, PSR regulatory fees 2015/16, published at <https://www.psr.org.uk/psr-publications/policy-statements/ps-1525-psr-fees-2015-2016>

<sup>5</sup> What FSBRA calls 'systems' the IFR calls 'schemes'. For consistency, in this consultation paper we use the word 'system' to mean both a system within the meaning of FSBRA and a scheme within the meaning of the IFR.

<sup>6</sup> In this consultation paper we refer to these as acquiring and card-issuing payment service providers (PSPs)

## Annual funding requirement

- 1.16 For the year 2015/16, the PSR had an AFR of £28.1 million. This figure was made up of the one-off £12.2 million costs incurred prior to 1 April 2015 in setting up the PSR, and the £15.9 million budget for 1 April 2015 to 31 March 2016 to cover the PSR's ongoing regulatory activities in that fee year.
- 1.17 For the year 2016/17, the PSR will have a reduced AFR covering only its ongoing regulatory activities and amounting to approximately £15 million. This is expected to be split across the PSR's FSBRA and IFR functions as follows (the funding for our activities relating to the PAD will be the subject of a future consultation):
- £13.5 million for functions and activities in relation to FSBRA and concurrent competition powers
  - £1.5 million for functions and activities in relation to the IFR

The IFR element of this split is based on an estimate of our activity relating to the IFR for the year 2016/17. This takes into account the PSR's responsibility of monitoring and enforcing compliance with its provisions. We are currently consulting on draft guidance on how we will monitor and enforce compliance with IFR in the UK.<sup>7</sup>

## Fee-raising

- 1.18 FSBRA is the legislation under which fees can be raised to fund the PSR's functions and activities both for FSBRA itself and the 2015 Regulations. Under FSBRA, it is the FCA that must make any rules in order to fund the PSR. The FCA works closely with the PSR on funding matters, and in particular in determining the policies for allocating, calculating and collecting PSR fees. The PSR makes a recommendation to the FCA on the relevant policies and rules, and the FCA makes the decision and makes the fees rules to enact those policies.
- 1.19 The FCA can raise these fees from any participants in the regulated payment systems to fund the expenses of operating the PSR (including the cost of collecting fees) in relation to its FSBRA functions and activities. 'Any participants' (as defined in FSBRA) includes payment system operators (operators), infrastructure providers, and payment service providers (PSPs) with direct or indirect access to the regulated payment systems.
- 1.20 The FCA can raise fees from 'regulated persons' (instead of 'participants' as in relation to the PSR's FSBRA functions) to fund the expenses of operating the PSR (including the cost of collecting fees) in relation to its IFR functions and activities.<sup>8</sup> A 'regulated person' is defined in the 2015 Regulations as any person on whom an obligation, prohibition or restriction is imposed by any provision of the IFR.
- 1.21 Our calculation and collection methodologies must be compatible with the FCA's general duties (as it is the FCA that makes the fees rules). They must also take into account the PSR's regulatory principles set out in FSBRA (as the methodologies are developed by and agreed with the PSR). Our assessment of compatibility with the FCA's general duties and how these regulatory principles are met is set out in Chapter 5. These include:
- the need to use our resources in the most efficient and economical way

<sup>7</sup> <https://www.psr.org.uk/psr-publications/consultations/application-of-the-IFR-in-the-uk>

<sup>8</sup> See Regulation 15 of SI 2015/1911

- the desirability of exercising our functions in a way that recognises differences in the nature of the businesses carried on by different persons we regulate
- the principles of proportionality and transparency

1.22 This document forms part of our annual cycle of fees consultation. The process for the cycle for PSR fees for the year 2016/17 is set out in more detail in Chapter 2.

1.23 This document is structured as follows:

- **Chapter 1** is this overview.
- **Chapter 2** explains the roles of the FCA and PSR in relation to PSR fees, describes the regulatory process and sets out the next steps (subject to the outcome of the consultation in Chapters 3 and 4).
- **Chapter 3** sets out our **proposed policy on allocation between regulated payment systems of our AFR for our functions and activities under FSBRA**, and our **consultation on calculation and collection methodologies for the year 2016/17**.
- **Chapter 4** sets out our **proposed policy on allocation between relevant card payment systems of our AFR for our functions and activities under the IFR**, and our **consultation on calculation and collection methodologies for the year 2016/17**.
- **Chapter 5** sets out **proposed changes to the fee rules** to give effect to our proposals in Chapters 3 and 4 and a number of other proposals identified in that chapter<sup>9</sup> and it includes the **compatibility assessment** for our proposals.
- The **Annexes** include the following:
  - i. **Annex 1** is the draft fees instrument setting out the proposed amendments to the PSR fees rules in FEES 9.
  - ii. **Annex 2** lists our consultation questions.
  - iii. **Annex 3** is the glossary of terms and abbreviations used in this document.

## Who does this consultation affect?

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1.24 This consultation will affect participants in regulated payment systems under FSBRA, IFR regulated persons and PSPs which operate in the UK. This includes<sup>10</sup>:

### *FSBRA*

- a. PSPs which are direct members of Bacs, CHAPS, C&C, FPS, LINK or NICC.
- b. Acquiring or card-issuing PSPs operating in the UK which are members of MasterCard or Visa.

<sup>9</sup> Specifically at paragraphs 5.11 to 5.22

<sup>10</sup> The fees rules refer to 'direct payment service providers', which under our proposals includes acquirers, card issuers and in certain cases operators (for MasterCard and Visa and all of the IFR card systems) and direct payment service providers in the Bacs, CHAPS, C&C, FPS, LINK and NICC payment systems.



***IFR***

- c. Acquiring or card-issuing PSPs operating in the UK which are members of card payment systems subject to the IFR, and in some cases the operators of such card payment systems.

***Is this of interest to consumers?***

- 1.25 This consultation paper contains no material directly relevant to retail financial services consumers or consumer groups, although financial services consumers may pay for fees indirectly.

**What do you need to do next?**

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- 1.26 Please consider our proposals and send us your comments on the questions in this consultation paper by 5.00pm Thursday 11 February 2016. You can email us at [PSRfees@psr.org.uk](mailto:PSRfees@psr.org.uk) or write to us at the following address:

Payment Systems Regulator  
Fees team  
25 The North Colonnade  
Canary Wharf  
London E14 5HS

## 2 The PSR's and FCA's roles and the 2016/17 PSR fees timeline

This chapter describes the respective roles of the PSR and FCA in relation to PSR fees and the fees timeline subject to the outcome of the consultation in Chapters 3 and 4.

### The fees process and the PSR's and FCA's roles

- 2.1 The FCA is responsible for funding the PSR for its functions and activities through the collection of fees. It may make rules requiring participants in regulated payment systems (in relation to FSBRA functions) and regulated persons (in relation to IFR functions) to pay to the FCA specified amounts, or amounts calculated in a specified way, to fund the PSR.<sup>11</sup>
- 2.2 The FCA works closely with the PSR on funding matters, and in particular in determining the policies for allocating, calculating and collecting PSR fees.
- 2.3 The PSR's estimated AFR for 2016/17 is shown in Table 1. These figures are provisional at this time and will be finalised for the PSR's final 2016/17 budget.

**Table 1: PSR initial budgeted 2016/17 AFR**

Annual funding requirement 2016/17	£ million
FSBRA 2016/17 budget	~13.5
IFR 2016/17 budget	~1.5
Total PSR AFR 2016/17 (initial budget)	~15.0

- 2.4 We use 'FSBRA AFR' and 'IFR AFR' as shorthand to refer to those portions of the overall PSR AFR which are currently budgeted to fund our FSBRA (and concurrent competition) and IFR functions and activities respectively. The PSR's estimated AFR in relation to its FSBRA and IFR functions and activities will be recovered from participants in regulated payment systems and from regulated persons, respectively, our proposals for which are set out in greater detail in Chapters 3 and 4.

<sup>11</sup> See section 40 and paragraph 9, Schedule 4 FSBRA, as modified by the 2015 Regulations.

## Fees timeline

2.5 The FCA's usual fees cycle begins with a consultation paper published in November of each year. In the case of the PSR for the year 2016/17, we are issuing this first consultation approximately six weeks after the FCA published its 2016/17 fees and levies policy proposals consultation<sup>12</sup>, having published our final policy statement for PSR regulatory fees 2015/16 on 27 October 2015. We aim to achieve a similar end date and publish our final policy statement by the end of June 2016. Our intended timeline is:

December 2015	Consultation paper: On how 2016/17 PSR regulatory fees will be allocated and on how we propose to calculate and collect PSR fees to fund the PSR's FSBRA and IFR functions and activities.
January–March 2016	Fee tariff data collection: Participants in regulated payment systems and regulated persons are asked to provide data that is not already available to the PSR.
March 2016	Consultation paper: Proposed fee rates for individual fee-payers for the coming year, together with feedback on the December 2015 consultation and the making of any rules which need to come into effect from April 2016.
15 April 2016	Payment date for on-account invoices: Fee-payers whose 2015/16 PSR fees were £20,000 or more for their participation in any individual regulated payment system are required to make an advance payment of 30% of their 2015/16 PSR fees to each of those operators.
June 2016	Policy statement finalising the periodic fee rates rules for the year 2016/17 and making any other rules.
July 2016	From July, the operators of regulated payment systems and IFR card systems invoice fee-payers (and the FCA invoices operators of IFR card systems where they are liable for the payment of PSR fees themselves).
August 2016	The 2016/17 PSR fees are due (after deducting any on-account payments made on 15 April 2016).

<sup>12</sup> See 'Regulatory fees and levies: policy proposals for 2016/17' (CP15/34) published on 5 November 2015 at <http://www.fca.org.uk/news/cp15-34-regulatory-fees-and-levies-proposals-for-2016-17>

# 3

## Proposed policy on allocation between regulated payment systems of our AFR for our functions and activities under FSBRA, and consultation on calculation and collection methodologies for 2016/17

This chapter sets out our consultation proposals for:

- allocating the PSR's 2016/17 FSBRA AFR to regulated payment systems
- the methodology for calculating the 2016/17 fees for individual participants within regulated payment systems
- how we will collect the PSR fees for 2016/17

For our FSBRA AFR, we propose to continue with the approach we took for 2015/16. This involves:

- equal allocation across regulated pan-UK payment systems
- a volume-based fees calculation methodology for individual fee-payers (or based on shareholdings for NICC fee-payers)
- our 'indirect billing' approach, where the operators collect fees from their participants on our behalf
- a minimum threshold for individual acquiring and card-issuing PSPs in the regulated card payment systems, below which they will not have to pay a fee in respect of that system in relation to our FSBRA functions and activities

### Overview

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- 3.1 The portion of the PSR's AFR for its FSBRA-related ongoing regulatory activity and functions in 2016/17 is approximately £13.5 million.
- 3.2 We allocated our AFR for the year 2015/16 equally across all the FSBRA regulated pan-UK payment systems: Bacs, CHAPS, Cheque & Credit (C&C)/Northern Ireland Cheque Clearing (NICC), Faster Payments Scheme (FPS), LINK, MasterCard, and Visa Europe.
- 3.3 We treated C&C and NICC as a single pan-UK cheque system for allocation purposes, as they are both cheque and credit clearing systems but operate in distinct, complementary geographic areas.

The allocation between them was based on their respective transaction volumes (calculated based on 2014 volumes).

- 3.4 For recovery of our 2015/16 AFR, which related only to our functions and activities under FSBRA (including our concurrent competition functions), we considered that equal allocation had the appropriate balance as it is relatively simple, transparent and predictable, and is a fair and proportionate allocation for individual payment systems. We also considered that equal allocation between regulated pan-UK payment systems is particularly appropriate to the early stages of the PSR, when we are focused on fully understanding each system and the payments industry as a whole, and our work programme is wide-ranging. Finally, an equal allocation approach is inexpensive to administer and so is consistent with the need to use our resources in an efficient and economical way.
- 3.5 In this chapter, we look at:
- our allocation methodology for funding our FSBRA functions and activities
  - who must pay PSR FSBRA fees
  - the fees collection methodology, including VAT considerations
  - fee calculation methodologies

### **Our AFR allocation methodology for FSBRA-related functions and activities**

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- 3.6 To raise PSR fees to fund our FSBRA functions and activities for the year 2016/17, we propose to continue with the same allocation approach as adopted for the year 2015/16, namely equal allocation across all FSBRA regulated pan-UK payment systems, treating C&C and NICC as a single pan-UK cheque system for allocation purposes.
- 3.7 This means, each regulated pan-UK system will contribute 14.3% of the funding for the PSR's FSBRA functions, which for the year 2016/17 will be approximately £1.93 million for each system (compared to £4 million for the year 2015/16).
- 3.8 This approach has the benefits of being proportionate, predictable and simple to administer. It is also consistent with the approach we adopted in year 2015/16. This approach is still appropriate as the PSR is still in the early stages of its operations, and our work programme remains broad.
- 3.9 Most payment system operators and respondents to our consultations supported our allocation approach for 2015/16.
- 3.10 Table 2 summarises our proposed FSBRA allocation methodology.

**Table 2: Table relating to FEES 9 Annex 1 Table A – Proposed allocation methodology by regulated payment system for 2016/17 in relation to FSBRA functions and activities**

Regulated payment system	Proposed allocation methodology across regulated pan-UK payment systems for 2016/17 for FSBRA functions and activities		
	Approach	%	£ million
Bacs	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93
CHAPS	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93
FPS	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93
Cheques	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93
C&C	<i>Within cheques*: 97%</i>	<i>13.9%</i>	<i>1.87</i>
NICC	<i>Within cheques*: 3%</i>	<i>0.4%</i>	<i>0.06</i>
LINK	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93
MasterCard	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93
Visa Europe	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93
Total		100.0 %	13.5

\* Note: Figures may not sum exactly due to rounding. The 97% and 3% figures indicated for C&C and NICC relate to their respective share of the total allocation to the pan-UK cheque system based on their 2014 transaction volumes. Once the 2015 tariff data is available, the allocation as between C&C and NICC will be updated as necessary.

- 3.11 For year 2015/16 we considered, but discounted, alternative allocation methodologies. We considered allocation based on relative volumes or values, or a weighted volume and value approach, as well as an approach involving one part equal allocation with the remainder allocated on a variable basis.
- 3.12 However, in a volume or value-based allocation the inherent characteristics of the different regulated payment systems would result in a dramatic shift in fee liability for participants in some regulated systems, with some systems being allocated much more and others much less. We considered a focus on volumes alone to be inappropriate, as it would mean that all transactions across the different regulated payment systems would be treated equally, regardless of the type or value of transactions in question.
- 3.13 A weighted volume or value approach would be more difficult to implement as setting appropriate value and volume weightings could be complex and possibly arbitrary. These methodologies would also require detailed, comparable data from all in-scope participants, adding to the complexity.

- 3.14 We have, in addition, also considered allocating a portion of our FSBRA element of the AFR equally across all regulated payment systems (on the basis that there is a cost to regulation that all participants need to contribute towards), and the remainder according to a preferred metric (such as, for example, a sliding scale based on transaction values and/or transaction volumes). This approach would mitigate to some extent the most extreme results of using a transaction volume or value-only based methodology. However, the choice of metric – or combination of metrics – itself, and the setting of any sliding scale, could be more complex and possibly arbitrary.
- 3.15 For 2015/16, we also considered and rejected the options of allocating fees according to:
- the respective operating costs of each regulated payment system
  - PSR activities allocation such as timesheet data
- 3.16 We considered that such methodologies would also lead to disproportionate allocations. In particular, an activity-based measure would involve high administrative costs and could discourage payment systems and their participants from actively engaging with the PSR (as this might result in a higher proportion of fees being apportioned to them). Our analysis has not changed, so we did not pursue these options further for our 2016/17 FSBRA fees.
- 3.17 Our 2015/16 equal allocation approach did mitigate extreme results with respect to cheques by treating NICC and C&C as a single pan-UK cheque system, and we propose to continue that approach.

**Q1: Do you agree with our proposal to use the same AFR allocation methodology across regulated payment systems in relation to FSBRA functions and activities in 2016/17 as we did in 2015/16?**

### **Levying of PSR fees in relation to FSBRA-related functions**

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- 3.18 As set out in paragraph 1.23, we can raise fees from any participants in a regulated payment system to fund our FSBRA activities.
- 3.19 For 2015/16, our FSBRA-related PSR fees were levied on:
- a. PSPs which are direct members of Bacs, CHAPS, C&C, FPS, LINK or NICC.
  - b. Acquiring or card-issuing PSPs operating in the UK which are members of MasterCard or Visa.
- 3.20 We consider that this approach is still valid for our FSBRA-related PSR fees in 2016/17.

### **PSR fees, VAT and fees collection methodology**

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- 3.21 We are aware of the need to minimise the cost we impose on the industry we regulate. We previously consulted with HMRC on the VAT treatment of PSR fees under Article 13(1) Principal VAT Directive when invoices are issued by the FCA.
- 3.22 On 9 August 2015, HMRC issued a ruling setting out that, subject to certain conditions in terms of how they are calculated and collected, PSR fees would be outside the scope of VAT (as opposed to being VAT exempt) if they were levied on the direct members of regulated payment systems, but collected by the operators (acting as collection agents on behalf of the PSR and FCA). This HMRC

ruling was included as Annex 1 to our consultation paper CP15/26, *PSR regulatory fees 2015/16* (August 2015).<sup>13</sup>

- 3.23 We adopted the ‘indirect billing’ method for our 2015/16 FSBRA fees, where operators act as our collection agents and issue invoices in accordance with our instructions to specific categories of participants in payment systems. This approach minimises the overall regulatory burden as far as possible, by ensuring that PSR regulatory fees are outside the scope of VAT – and also do not trigger the need for additional regulatory reserves to be held by those payment systems which are recognised by the Bank of England under the Banking Act 2009.
- 3.24 We consider that the reasons for adopting the ‘indirect billing’ method, as set out in CP15/26<sup>14</sup> and our corresponding policy statement, PS15/25<sup>15</sup>, remain valid, and that this approach remains appropriate for the collection of our fees in relation to FSBRA functions and activities. Therefore we propose to follow the same ‘indirect billing’ method for the collection of our FSBRA fees for 2016/17.
- 3.25 This means that operators of regulated payment systems will act as collection agents for us where PSR FSBRA fees are payable by participants in their systems. This will ensure that PSR fees are outside the scope of VAT.

**Q2: Do you agree with our proposal to continue to use the indirect billing method for collecting PSR fees in relation to FSBRA functions and activities in 2016/17?**

### **Our proposed FSBRA fee calculation methodology**

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- 3.26 In 2015/16, the liability for paying the PSR’s FSBRA AFR allocated to each regulated payment system fell to each system’s direct members, card issuers and acquirers operating in the UK, based on their relative individual transaction volumes (or, for NICC, relative shareholdings in the NICC operator).
- 3.27 In PS15/25 we set out what ‘transactions issued and acquired in the UK’ meant for regulated card payment systems under FSBRA, and we explained the types of transactions to be taken into account for each regulated payment system.<sup>16</sup>
- 3.28 There was strong support for our fee calculation proposals for 2015/16.<sup>17</sup> We propose to follow the same methodologies for the PSR’s 2016/17 FSBRA fees.

### **The minimum threshold for PSPs in regulated card payment systems**

- 3.29 For 2015/16, we considered who should pay PSR fees for the two card payment systems regulated under FSBRA, MasterCard and Visa. Our 2015/16 fees rules referred to ‘*all transactions by acquirers and card issuers operating in the UK under each of the two regulated card payment systems, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals*’.
- 3.30 During the consultation that led to the adoption of the fee rule described above, MasterCard and Visa expressed concerns that the cost of fee collection from some PSPs with very low volumes of UK transactions could be similar to or higher than the PSR fees allocated to those PSPs. We also recognised that some of these PSPs might not be expecting to contribute to the PSR’s funding,

<sup>13</sup> [https://www.psr.org.uk/sites/default/files/media/PDF/PSR%20regulatory%20fees%202015-16\\_0.PDF](https://www.psr.org.uk/sites/default/files/media/PDF/PSR%20regulatory%20fees%202015-16_0.PDF)

<sup>14</sup> Paragraphs 4.17 to 4.37 of CP15/26.

<sup>15</sup> Paragraphs 2.28 to 2.34 of PS15/25.

<sup>16</sup> Paragraphs 2.36 to 2.45 of PS15/25.

<sup>17</sup> CP15/26, paragraphs 4.39 to 4.42; and PSR15/25, paragraphs 2.8 and 2.68 to 2.69.



given how limited their UK activities are. Following discussions with both card payment systems, we decided to apply a minimum transaction volume threshold for acquiring and card-issuing PSPs in the regulated card payment systems.

- 3.31 We were satisfied that a minimum threshold was reasonable and proportionate, and that there would not be any meaningful 'cross-subsidisation' of very small UK volume PSPs by larger PSPs which could distort effective competition.
- 3.32 We also considered that our approach took into account the different nature of card payment systems and their participants compared to other FSBRA regulated payment systems.
- 3.33 We therefore introduced two alternative tests in the fees rules. An acquiring or card-issuing PSP operating in the UK which is a member of the MasterCard or Visa systems would not be required to pay a PSR fee (in relation to FSBRA functions and activities) for a given fee year if:
- a. it realises fewer than 100,000 transactions in the relevant time period, or
  - b. its PSR fee for that year, calculated according to the fees rules, would be less than £50 (in the absence of the minimum threshold)
- 3.34 As we do not expect circumstances to have changed significantly since our 2015/16 fees rules were set, we propose to keep the same minimum transaction volume threshold for acquiring and card-issuing PSPs in the UK which are members of the MasterCard or Visa systems for our 2016/17 FSBRA fees.<sup>18</sup>

### Calculation of PSR FSBRA fees for individual PSPs

- 3.35 We describe below our proposed calculation methodology for determining FSBRA fees payable by individual participants in each regulated payment system. This methodology is also set out in the proposed amendments to the fees rules at Table A of FEES 9 Annex 1R, included as Annex 1 to this consultation paper.<sup>19</sup> The relevant time periods and dates are those to be taken into account when calculating the PSR FSBRA fees applicable for the year 2016/17 to individual PSPs.
- 3.36 The calculation methodology for individual fees takes into account transaction volumes realised by each participant (other than in the case of NICC). It should be noted that under section 42(8) FSBRA, the Bank of England is not a participant within the meaning of section 42 FSBRA, and accordingly there is no liability for PSR fees in relation to FSBRA on the Bank of England. This also means that when considering transaction volumes, transactions attributed to the Bank of England are not to be taken into account.
- 3.37 Our proposed 2016/17 PSR FSBRA fee calculation methodologies for each regulated payment system are largely unchanged from 2015/16, and are set out below:
- a. **Bacs:** The PSR fee to be recovered from individual direct PSP members of the Bacs payment system will be calculated proportionally to the transaction volumes processed on behalf of that direct PSP through Bacs during the relevant time period. The 2016/17 relevant time period for transaction volumes processed through the Bacs regulated payment system is between 1 January and 31 December 2015. Transactions include both the initiation of the transfer of funds, and the receiving of transferred funds (this is an additional clarification compared to 2015/16). For these purposes, the direct PSP members are listed at

<sup>18</sup> See the draft fees instrument at Annex 1 where we propose some minor modifications to the thresholds to make them clearer. These are reflected in paragraph 3.37 for clarity.

<sup>19</sup> We propose amendments to the fees rules in order to take account of the change in relevant years and to make certain clarifications considered desirable in response to questions from some operators in relation to their calculations of fees liability for the year 2015/16. See Chapter 5 for more detail.

<http://www.bacs.co.uk/Bacs/Corporate/CorporateOverview/Pages/OurMembers.aspx>, excluding the Bank of England.

- b. **C&C:** The PSR fee to be recovered from individual direct PSP members of the C&C payment system will be calculated proportionally to the transaction volumes processed on behalf of that direct PSP member through C&C during the relevant time period. The 2016/17 relevant time period for transaction volumes processed through the C&C regulated payment system is between 1 June and 31 December 2015. Transaction volumes include cleared transaction volumes 'in clearing' and 'out clearing' for GBP, USD and EUR. For these purposes, the direct PSP members are listed at [http://www.chequeandcredit.co.uk/about\\_us\\_and\\_our\\_members/our\\_members/](http://www.chequeandcredit.co.uk/about_us_and_our_members/our_members/), excluding the Bank of England.
- c. **CHAPS:** The PSR fee to be recovered from individual direct PSP members of the CHAPS payment system will be calculated proportionally to the transaction volumes processed on behalf of that direct PSP member through CHAPS during the relevant time period. The 2016/17 relevant time period for transaction volumes processed through the CHAPS regulated payment system is between 1 January and 31 December 2015. Transaction volumes include CHAPS' internal MT103 and MT202 categories of transfers of funds. Transactions include both the initiation of the transfer of funds, and the receiving of the transferred funds (this is an additional clarification compared to 2015/16). For these purposes, the direct PSP members are the direct participants listed at <http://www.chapsco.co.uk/participation/currentparticipants/>, excluding the Bank of England.
- d. **FPS:** The PSR fee to be recovered from individual direct PSP members of the FPS payment system will be calculated proportionally to the transaction volumes processed on behalf of that direct PSP member through FPS during the relevant time period. The 2016/17 relevant time period for transaction volumes processed through the FPS regulated payment system is between 1 January and 31 December 2015. Transactions include both the initiation of the transfer of funds, and the receiving of the transferred funds (this is an additional clarification compared to 2015/16). For these purposes, the direct PSP members are listed at <http://www.fasterpayments.org.uk/membership/access-options/direct-membership/current-members>.
- e. **LINK:** The PSR fee to be recovered from individual direct PSP members of the LINK payment system will be calculated proportionally to the transaction volumes issued and acquired on behalf of that direct PSP member through LINK during the relevant time period. The 2016/17 relevant time period for transaction volumes issued and acquired through the LINK regulated payment system is between 1 January and 31 December 2015. Transaction volumes include all transactions issued and acquired through the LINK regulated payment system (including GBP cash withdrawals, foreign currency dispenses, balance enquiries, PIN management, charity donations, non-cash transactions and mobile payment transactions), excluding 'on us' cash withdrawals (which do not get processed through the LINK regulated payment system). Both acquired and issued transactions are included. For these purposes, the direct PSP members are listed at <http://www.link.co.uk/AboutLINK/Pages/Members.aspx>
- f. **MasterCard:** The PSR fee to be recovered from individual acquirers and card issuers operating in the UK that are members or licensees of the MasterCard payment system (or from the operator acting as such an acquirer or card issuer) will be calculated proportionally to the transaction volumes issued and acquired on behalf of that acquirer or card issuer (or by the operator acting as such an acquirer or card issuer) under the MasterCard system in the UK during the relevant time period. The 2016/17 relevant time period for transaction volumes issued and acquired under the MasterCard regulated payment system in the UK is between 1 January and 31 December 2015. This includes all transactions by acquirers or card issuers operating in the UK (or by the operator acting such as an acquirer or card issuer) under the

MasterCard regulated payment system, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards (such as buying foreign currency at a bureau de change or getting cashback when buying groceries at a supermarket), but excluding cash-only withdrawals (such as from ATMs or over the counter). All MasterCard-branded transactions are included irrespective of the processing entity (MasterCard itself, a third party processing entity or 'on us' transactions). For these purposes, 'transactions by acquirers and card issuers operating in the UK' means:

- On the acquiring side:
  - all transactions acquired by UK-based acquirers (or by an operator acting as such an acquirer) resulting in payments to merchants located in the UK
  - all transactions acquired by UK-based acquirers (or by an operator acting as such an acquirer) resulting in payments to merchants located outside the UK
  - all transactions acquired by non-UK-based acquirers (or by an operator acting as such an acquirer) resulting in payments to merchants located in the UK
- On the issuing side: all transactions on cards issued by UK-based card issuers (or by an operator acting as such a card issuer) (irrespective of where the cardholder is located or the payment is initiated).

A minimum transaction volume threshold is applied whereby an acquirer or card issuer operating in the UK is not required to pay a PSR fee in the given year, and the UK transaction volumes that they realise are to be excluded from the total MasterCard transaction volumes used for fee calculation purposes, if (i) it has acquired and issued less than 100,000 relevant UK transactions in the relevant time period, or (ii) the PSR fee it would normally pay, as calculated according to the fees rules, would be less than £50 for the current fee year if the minimum transaction volume threshold was not applied.

- g. **NICC:** The PSR fee to be recovered from individual direct PSP members of the NICC payment system will be calculated proportionally to their shareholding in the operator of the NICC regulated payment system (Belfast Bankers' Clearing Company Ltd) during the relevant time period. For the NICC regulated payment system, this is defined as relevant shareholdings as of 31 December 2015. The direct PSP members are Northern Bank Ltd t/a Danske Bank, AIB Group (UK) plc t/a First Trust, Bank of Ireland (UK) Ltd and Ulster Bank Ltd.
- h. **Visa Europe:** The PSR fee to be recovered from individual acquirers and card issuers operating in the UK that are members or licensees of the Visa payment system (or from the operator acting as such an acquirer or card issuer) will be calculated proportionally to the transaction volumes issued and acquired on behalf of that acquirer or card issuer (or by the operator acting as such an acquirer or card issuer) under the Visa system in the UK during the relevant time period. The 2016/17 relevant time period for transaction volumes issued and acquired under the Visa regulated payment system in the UK is between 1 January and 31 December 2015. This includes all transactions by acquirers and card issuers operating in the UK (or by the operator acting as such an acquirer or card issuer) under the Visa regulated payment system, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards (such as buying foreign currency at a bureau de change or getting cashback when buying groceries at a supermarket), but excluding cash-only withdrawals (such as from ATMs or over the counter). All Visa-branded transactions are included irrespective of the processing entity (Visa itself, a third party processing entity or 'on us' transactions). For these purposes, 'transactions by acquirers and card issuers operating in the UK' means:

- On the acquiring side:
  - all transactions acquired by UK-based acquirers (or by an operator acting as such an acquirer) resulting in payments to merchants located in the UK
  - all transactions acquired by UK-based acquirers (or by an operator acting as such an acquirer) resulting in payments to merchants located outside the UK
  - all transactions acquired by non-UK-based acquirers (or by an operator acting as such an acquirer) resulting in payments to merchants located in the UK
- On the issuing side: all transactions on cards issued by UK-based card issuers (or by an operator acting as such a card issuer) (irrespective of where the cardholder is located or the payment is initiated).

A minimum transaction volume threshold is applied whereby an acquirer or card issuer operating in the UK is not required to pay a PSR fee in the given year, and the UK transaction volumes that they realise are to be excluded from the total Visa transaction volumes used for fee calculation purposes, if (i) it has acquired and issued less than 100,000 relevant UK transactions in the relevant time period, or (ii) the PSR fee it would normally pay, as calculated according to the fees rules, would be less than £50 for the current fee year if the minimum transaction volume threshold was not applied.

**Q3: Do you agree with our proposal to use the same fee calculation methodology relating to FSBRA functions and activities for the year 2016/17 as we did for the year 2015/16?**

**Q4:**

- a. **Do you agree with our proposal to apply the same criteria as we did in the year 2015/16 to determine which acquiring and card-issuing PSPs must pay PSR FSBRA fees?**
- b. **Do you agree with our proposal to apply a minimum transaction volume threshold for card issuers and acquirers in regulated card payment systems in 2016/17?**
- c. **Do you agree with our proposal to apply the minimum threshold for regulated card payment systems only, as we did in 2015/16?**

### **Summary of our proposals in relation to 2016/17 PSR fees to fund our FSBRA functions and activities**

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3.38 Table 3 summarises the proposed allocation methodology between regulated payment systems, and sets out the proposed PSR fee calculation methodology within individual regulated payment systems, for the funding of our FSBRA functions and activities:

**Table 3: Table relating to FEES 9 Annex 1R Table A – Proposed allocation methodology by regulated payment system and proposed calculation methodology for PSR FSBRA fee payable by PSPs within those payment systems**

Regulated payment system	Proposed allocation methodology across regulated pan-UK payment systems			Proposed calculation methodology for PSR fee payable by individual PSPs
	Approach	%	£ million	
Bacs	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93	The PSR fee is calculated for each individual direct PSP member proportionally to the transaction volumes processed on behalf of that direct PSP member through the regulated payment system in question during the relevant time period.
CHAPS	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93	
FPS	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93	
LINK	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93	
Cheques	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93	
C&C	Within cheques: 97%	13.9%	1.87	
NICC	Within cheques: 3%	0.4%	0.06	
MasterCard	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93	The PSR fee is calculated for each individual acquiring and card-issuing PSP operating in the UK (or operator acting as such an acquirer or card issuer) proportionally to the transaction volumes issued and acquired on behalf of that acquiring or card-issuing PSP (or operator acting as such an acquirer or card issuer) under the regulated card
Visa Europe	Equal allocation to pan-UK payment systems = 1/7	14.3%	1.93	

Regulated payment system	Proposed allocation methodology across regulated pan-UK payment systems			Proposed calculation methodology for PSR fee payable by individual PSPs
	Approach	%	£ million	
				<p>payment system in question during the relevant time period. A minimum transaction volume threshold is applied where an acquiring or card-issuing PSP operating in the UK (i) has acquired and issued less than 100,000 relevant UK transactions in the relevant time period, or (ii) the PSR fee it would normally pay calculated according to the fee calculation fees rules would be less than £50 for the current fee year (in the absence of the minimum threshold).</p>
Total		100.0%	13.5	

## 4

# Proposed policy on allocation between relevant card payment systems of our AFR for our functions and activities under the Interchange Fees Regulation, and consultation on calculation and collection methodologies for 2016/17

This chapter sets out our consultation proposals for:

- allocating the PSR's 2016/17 IFR AFR to IFR card payment systems
- the methodology for calculating the 2016/17 fees for individual participants within IFR card payment systems
- how we propose to collect the PSR regulatory fees for 2016/17

We propose to allocate our IFR AFR equally across the larger IFR card payment systems, while those with only a limited UK presence would pay a flat fee and those with a very small UK presence would be exempted. Within IFR card payment systems, we propose a volume-based fees calculation methodology for individual fee-payers which is derived from the FSBRA methodology for regulated card payment systems.

We propose to apply the 'indirect billing' approach adopted for FSBRA fees for the year 2015/16 to IFR fees for 2016/17 and have card payment system operators act as our collection agents. There would be some necessary adjustments, in particular to reflect the fact that some card payment system operators also act as acquiring or card-issuing PSPs.

We also propose to apply the 2015/16 FSBRA approach of a minimum threshold for individual acquiring and card-issuing PSPs under any particular IFR card payment systems below which they will not have to pay a fee in respect of that system in relation to our IFR functions and activities.

### Overview

- 4.1 On 9 December 2015, we were designated as the competent authority for the IFR in the UK in the 2015 Regulations. The 2015 Regulations make specific provision for raising fees from 'regulated persons'. This requires us to consider which industry participants our funding requirement should be levied on, and what methodology should be used to allocate and calculate fees across them.
- 4.2 The portion of the PSR's 2016/17 AFR that we estimate to correspond to our IFR-related ongoing regulatory activity is approximately £1.5 million.

4.3 In this chapter, we consider:

- who should pay PSR IFR fees
- our allocation methodology for funding our IFR functions and activities
- the fees collection methodology, including VAT considerations
- fee calculation methodologies

## **AFR allocation methodology relating to IFR functions and activities**

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### **Which systems should be required to contribute to the funding of the PSR's IFR functions and activities**

- 4.4 The 2015 Regulation gives us the ability to raise fees in relation to the PSR's IFR functions. In developing our allocation methodology we first have to consider across whom to allocate our IFR AFR. Subject to certain considerations of scale of UK presence, we propose to allocate the IFR AFR across all the card payment systems which operate in the UK and which are subject to the IFR. We consider that this is appropriate and fair, as all of these card payment systems will be the subject of our monitoring and enforcement activities under the IFR. We see no reason, other than scale of UK presence, to distinguish between card payment systems in this respect.
- 4.5 We have looked at how we approached the question of which card payment systems and participants under FSBRA are considered to be operating in the UK to determine our approach under IFR, recognising that the application of the IFR is limited to transactions where both the issuer and the acquirer are located within the European Economic Area (EEA).
- 4.6 Card payment systems are considered to be operating in the UK (for the purpose of the IFR fee liability and calculation) where any of the following transactions are realised:
- a. On the acquiring side:
    - i. any transactions acquired by UK-based acquirers (or by an operator acting such as an acquirer) resulting in payments to merchants located in the UK, where the card issuer is located in the EEA
    - ii. any transactions acquired by UK-based acquirers (or by an operator acting as such an acquirer) resulting in payments to merchants located outside the UK, where the card issuer is located in the EEA
    - iii. any transactions acquired by EEA-based acquirers (based outside the UK) (or by such an operator acting as an acquirer) resulting in payments to merchants located in the UK, where the card issuer is located in the EEA
  - b. On the issuing side:
    - i. any transactions on cards issued by UK-based card issuers (or operators acting as such a card issuer), where the acquirer is located in the EEA
- 4.7 With respect to which transactions are taken into account, we propose to align with our approach for card systems under FSBRA, adapted as follows:



- a. Transactions where the operator of a card payment system also acts as an acquirer and/or a card issuer are also taken into account (e.g. in a three-party system operating with licensees), and in that case, the operator is considered to be an acquiring and/or card-issuing PSP itself for fee purposes.
  - b. The identity of the processing entity is irrelevant – all system-branded transactions are taken into account regardless of the processing entity (which might be the system/operator, a third party processing entity or transactions within the same PSP ('on us' transactions)).
  - c. All transactions by acquirers and card issuers operating in the UK, or by the operator acting as such, are taken into account, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards (such as buying foreign currency at a bureau de change or getting cashback when buying groceries at a supermarket), but excluding cash-only withdrawals (such as from ATMs or over the counter).
- 4.8 The card payment systems which we understand to be currently operating in the UK are American Express (AmEx), Diners Club International (Diners Club), JCB International (JCB), MasterCard, Union Pay International (UPI) and Visa Europe (Visa). Allocating the IFR AFR across these card payment systems would be consistent with our approach for our FSBRA AFR for 2015/16, which we propose to continue for the year 2016/17 (see Chapter 3, paragraph 3.6).
- 4.9 We also considered allocating IFR fees only to those card payment systems which fall within the scope of the interchange fee caps element of the IFR, or allocating different levels of fees to systems depending on which IFR rules they are subject to. However, the business rules provisions of the IFR apply to all of the card payment systems operating in the UK, even if the interchange fee caps do not.

### **Recommended allocation methodology and alternatives considered**

- 4.10 To allocate the PSR's AFR for its IFR functions across the relevant card payment systems, we propose (for reasons we explain below) to use a three-tier methodology which recognises the significant differences in scale of the UK presence of some of these systems. We consider this methodology to be simple, transparent and predictable and without the disadvantages of the alternatives discussed below.
- 4.11 We considered whether it was appropriate to apply the same methodology as for our FSBRA-related functions – that is, equal allocation across the card payment systems operating in the UK, irrespective of the scale of UK presence. If we allocated our funding requirement for our IFR activity equally across the six card payment systems currently operating in the UK, they would each contribute 16.7% towards the PSR's IFR AFR. This would amount to approximately £0.25 million each. However, the extent of the systems' activities in the UK varies significantly, as indicated by the total transaction volumes realised (see Table 4 at paragraph 4.17). We do not think that it would be appropriate or proportionate to treat competing card payment systems identically when there are significant disparities in the scale of their UK activities (see Table 4).
- 4.12 We considered alternative allocation methodologies such as transaction volumes, transaction values or a weighted transaction volume/value approach. Under these alternative methodologies, the allocation would vary significantly across the card payment systems. Neither a transaction volumes nor a transaction values based approach would achieve an adequate balance between ensuring that all card payment systems operating in the UK make an appropriate contribution to funding our IFR activities while keeping contributions fair and proportionate. As per our considerations for allocating our FSBRA fees, a weighted volumes or values approach would be more difficult to implement as setting appropriate value and volume weightings could be complex and possibly arbitrary.

- 4.13 We also rejected the option of allocating the IFR AFR proportionally to the respective operating costs of each card payment system. We considered that operating costs would not be relevant as the systems have different business models.
- 4.14 As with our approach to funding our FSBRA activities, we considered that using an activity-based measure, such as timesheet data, would involve high administrative costs and it could discourage card systems and their participants from actively engaging with the PSR.
- 4.15 We also considered allocating part of our IFR fees equally across the card payment systems, and the remainder according to a preferred metric or combination of metrics. We rejected this for the same reasons of complexity as above (see paragraphs 3.13 to 3.14). We also consider that our three-tier proposal achieves a comparable economic effect but in a simpler and administratively more cost efficient way. For the reasons set out further below, we propose the following three-tier approach:
- equal allocation across the larger card payment systems
  - those with a limited UK presence would pay a flat fee
  - the systems with the smallest UK presence would pay nothing
- 4.16 This approach balances seeking to ensure that card payment systems operating in the UK contribute to the funding of the PSR's IFR functions and activities, while acknowledging that there are significant disparities in the presence in the UK of card payment systems which need to be taken into account. The levels for our proposed three-tier approach (fee exemption, flat fee, equal allocation), based on volumes of UK transactions, are set out further in paragraphs 4.20 to 4.32.

### System size thresholds for three-tier approach and flat fee

- 4.17 Based on the 2014 data we have, the respective sizes of the different card payment systems operating in the UK and subject to the IFR are as follows:

**Table 4: Relative size by transaction volumes of card payment systems subject to the IFR operating in the UK and three-tier approach<sup>20</sup>**

Card payment systems	Tier	Relative size by transaction volumes in the UK (as defined below)
JCB	Less than 100,000 UK transactions	Less than 100,000
UPI		Less than 100,000
Diners Club	More than 100,000 but less than 10 million UK transactions	Between 500,000 and 2 million
AmEx	More than 10 million UK transactions	Between 100 million and 1 billion
MasterCard		~4.6 billion
Visa		~21.8 billion

<sup>20</sup> Source for MasterCard and Visa volumes: PS15/25

- 4.18 Based on this data, there is a clear distinction between the presence in the UK of AmEx, MasterCard and Visa, and others. Similarly, there is clear distinction between the scale of Diners Club's presence in the UK and that of JCB and UPI.
- 4.19 Our aim is to seek to ensure that all relevant card payment systems contribute to the funding of our IFR functions, while also ensuring that we act proportionately and appropriately and take into account the different circumstances of the various systems.
- 4.20 Our starting point is that we consider it appropriate to apply an exemption to those systems with fewer than 100,000 UK transactions from making any contribution towards the IFR AFR, which would represent the smallest sized systems in our three-tier approach. This is the same threshold which we currently apply to individual acquiring and card-issuing PSPs members of MasterCard and Visa in respect of our FSBRA fees (in Chapter 3 we explained that we propose that exemption also applies in 2016/17), and which we are also proposing to apply to individual PSPs in IFR card payment systems.
- 4.21 Looking at the next tiers of systems, we note that there are currently distinct groupings of the three largest systems, and of the smallest two, with one system distinct from either of those groups and sitting clearly between them in terms of scale of UK presence. We also note that the scale of the difference in size of UK presence between Diners Club and the three larger card payment systems (AmEx, MasterCard and Visa) is significantly higher than the differences between any of the three larger card payment systems. Similarly, the scale of the difference between Diners Club and AmEx is significantly greater than the difference in volume between AmEx and either MasterCard or Visa. Finally, the scale of difference between Diners Club and the two smaller card payment systems (JCB and UPI) is significant.
- 4.22 At this point in time we consider that our proposal for three tiers, as opposed to any other number of tiers, is appropriate because of the respective scales of the card payment systems currently operating in the UK and the need to allocate our funding requirement fairly and proportionately. In our view, there are three clear tiers which reflect the current card payment systems groupings in terms of UK presence.
- 4.23 Having set the first tier at 100,000 UK transactions (aligned with the minimum threshold for fees liability of any card payment system member), we consider that it is appropriate to set the three tiers as follows:
- a. small-sized systems with less than 100,000 UK transactions
  - b. medium-sized systems with more than 100,000 and less than 10 million UK transactions
  - c. large systems with more than 10 million UK transactions
- 4.24 Paragraphs 4.26 to 4.32 set out how we propose to determine the allocation of the IFR AFR across each tier.
- 4.25 In determining the middle tier upper boundary we have reflected on the appropriateness of applying a fixed fee. We consider that the threshold of 10 million UK transactions is appropriate in light of the current scale of the IFR card payment systems' UK presence. If the structure of the market changes, we may in future assess the continuing appropriateness of the tiering and would, if necessary, be able to adapt the structure (including modifying the boundaries of the existing tiers and introducing additional tiers).
- 4.26 For those card payment systems with the largest UK presence, by transaction volumes (AmEx, MasterCard and Visa), we propose to allocate the IFR AFR equally across these systems.

- 4.27 For the medium-sized systems (at present only Diners Club), we consider that they should contribute to the funding of the PSR's IFR functions and activities, but equally, any contribution they make needs to be proportionate and appropriate. Systems falling within this tier still have a relatively limited presence in the UK compared to the three largest systems. We therefore consider that charging a flat fee to each of these systems is the simplest and most appropriate way to achieve our aim of ensuring that the allocation of our IFR AFR is proportionate and fair.
- 4.28 We propose to set the flat fee at 0.5% of the overall IFR AFR<sup>21</sup>, which amounts to ~£7,500 in 2016/17.
- 4.29 The smallest proposed system allocation for our 2015/16 FSBRA AFR is NICC's effective 0.4% share. We consider that this is a useful gauge for considering whether the proposed flat fee of 0.5% for our IFR AFR is reasonable.
- 4.30 One means of checking that a flat fee is not disproportionate is to take account of the implied cost per transaction of the allocated AFR, based on the AFR cost being passed through to individual transactions. While we do not have directly comparable data for relevant years, we consider that the implied cost per transaction of our proposal for Diners Club is not out of line with the range of implied costs per transaction under equal allocation for the PSR's 2015/16 FSBRA funding requirement.
- 4.31 We propose, therefore, that the flat fee for 2016/17 for Diners Club, having (the only system in the middle tier) a modest UK presence, should be 0.5% of the IFR AFR, amounting to ~£7,500 in 2016/17.
- 4.32 Each of AmEx, MasterCard and Visa would pay an equal share of the remaining IFR AFR, amounting to ~£497,500 each in 2016/17.

**Table 5: Table relating to FEES 9 Annex 1R Table B – Proposed allocation methodology by card payment system operating in the UK for 2016/17 in relation to IFR functions and activities**

Card payment card systems	Proposed allocation methodology across card payment systems for 2016/17		
	IFR AFR	£	%
JCB	Exempted due to system size	0	0
UPI	Exempted due to system size	0	0
Diners Club	Flat fee	~£7,500	0.5%
AmEx	Equal allocation (~1/3)	~£497,500	33.2%
MasterCard	Equal allocation (~1/3)	~£497,500	33.2%
Visa	Equal allocation (~1/3)	~£497,500	33.2%
Total		~£1.5 million	100%

Note: Figures may not sum exactly due to rounding

<sup>21</sup> Initial budget: ~£1.5 million for 2016/17.

**Q5: Do you agree with our three-tier approach to allocating our IFR AFR, as follows:**

- a. **Equal allocation of our IFR fees across those IFR card payment systems with more than 10 million relevant UK transactions?**
- b. **A flat fee contribution of 0.5% of the total IFR AFR for IFR card payment systems with between 100,000 and 10 million relevant UK transactions (which amounts to £7,500 for the year 2016/17)?**
- c. **Card payment systems with less than 100,000 relevant transactions should be exempted from PSR fees for the year 2016/17?**

### **Calculation and collection of PSR fees for IFR**

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- 4.33 As set out in paragraph 1.23, we can raise fees from any participants in a regulated payment system to fund our FSBRA activities, and from defined regulated persons to fund our IFR activities. For the IFR, we considered whether PSR fees should be levied broadly across the IFR regulated population described above (for example to include merchants, who are also subject to some provisions of the IFR). However, this could be complicated as it potentially includes a very high number of parties, the identity of some of which may vary considerably over time. It would also not be consistent with how we are treating the two card payment systems which we regulate under FSBRA, MasterCard and Visa.
- 4.34 We therefore propose to take a broadly similar approach for IFR as we have done for FSBRA. This means PSR fees will be levied on acquiring and card-issuing PSPs operating in the UK which are members, licensees or affiliates of card payment systems that are subject to IFR provisions. Where operators of card payment systems also act as such acquiring or card-issuing PSPs, liability for paying fees would fall on the operators themselves in relation to their acquiring and card-issuing activities.

### **PSR fees, VAT and fees collection methodology**

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- 4.35 As we explained in Chapter 3 in relation to FSBRA (see paragraph 3.20), we are aware of the need to minimise the cost we impose on the industry, and this was a key factor in our adoption of the 'indirect billing' method for our 2015/16 FSBRA fees.
- 4.36 We consider that the 'indirect billing' method used for PSR fees in relation to FSBRA is also appropriate for collecting our IFR fees. Therefore we propose to use it for our PSR fees in relation to the IFR for 2016/17, with certain exceptions as set out in paragraphs 4.38 to 4.39 below.
- 4.37 We propose that the card payment system operators invoice acquiring and card-issuing PSPs operating in the UK, with the operators acting as our collection agents and paying the collected monies to us. This is the approach we adopted for MasterCard and Visa for our 2015/16 FSBRA fees and which we propose to continue for our 2016/17 FSBRA fees. The benefits of this approach are that it is easy to administer, cost efficient, uses operators' existing processes and relationships, and ensures that PSR fees remain outside the scope of VAT.
- 4.38 Liability for paying PSR fees in relation to the IFR would fall on the card issuers and acquirers operating in the UK under the card payment systems that are subject to the IFR, or on the operators themselves where they are acting as such acquirers/card issuers, in which case the operators would be treated as PSPs for those acquiring/card-issuing activities.
- 4.39 For some card payment systems subject to the IFR, the operator may also act as a PSP by acquiring or issuing cards itself. In these cases, the PSR IFR fee relating to that operator's PSP activity will be

invoiced by the FCA and will be directly payable by the operator to the FCA. Similarly, if the situation described in paragraph 4.44 below arises, the operator will be invoiced by the FCA and the relevant fee will be payable to the FCA. This will ensure that these PSR fees relating to funding IFR functions and activities are outside the scope of VAT.

**Q6: Do you agree with our proposal to use the indirect billing method for collecting IFR fees, except where we propose to invoice operators directly?**

## **Our proposed IFR calculation methodology**

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### **Calculation methodology**

- 4.40 We propose to adopt broadly the same approach for calculating the PSR's IFR fees as for its FSBRA fees applicable to card systems, subject to the adjustments set out below.
- 4.41 The PSR fee paid by individual acquiring and card-issuing PSPs operating in the UK (or operators acting as such acquirers or card issuers) would be calculated in proportion to their respective transaction volumes under each card systems. Further detail is provided below in paragraphs 4.47 to 4.48.

### **Minimum threshold for card systems under the IFR**

- 4.42 As described at paragraphs 3.33 to 3.34, for 2016/17 PSR FSBRA fees we propose to continue to apply the minimum volume threshold for PSPs in card systems (100,000 UK transactions or a PSR fee of less than £50 would be due absent the minimum threshold). We consider that the same minimum threshold should apply to our IFR fees as this is potentially relevant for all card systems, and we do not see any clear rationale for applying a different minimum threshold for PSPs in relation to the IFR compared to FSBRA.
- 4.43 It is possible that in any given fee year, for the smaller IFR card payment systems (in particular those that would only be subject to a PSR flat fee), no individual PSP would be above the minimum threshold.
- 4.44 A lower minimum threshold could be introduced for IFR fees (than for FSBRA fees) to address that situation. However, as it is likely that the cost of billing these smaller PSPs would be more than the value of the fee itself, we do not consider this to be appropriate or proportionate. We also do not think having different minimum thresholds for IFR and FSBRA fees is desirable or appropriate. Therefore we propose that the operators of IFR card payment systems pay the PSR fee themselves if none of their acquiring and card-issuing PSPs are above one of the minimum thresholds. This will ensure that all IFR card payment systems which are not fee-exempt make a contribution to the funding of the PSR's IFR monitoring and enforcement activities, which we think is appropriate.
- 4.45 Under the normal fees cycle, tariff data is collected between January and March of each year. For the IFR, this would relate to UK transaction volume data for each card payment system subject to the IFR. We will also ask the card payment system operators if any of their acquirers and card issuers would fall below the 100,000 transaction volumes or £50 fee thresholds.

### **Calculation of PSR IFR fees for individual participants**

- 4.46 We describe below our proposed calculation methodology for determining IFR fees payable by individual acquiring and card-issuing PSPs operating in the UK and operators (where relevant) for each IFR card payment system, which is also set out in the proposed amendments to FEES 9 at Annex 1 to this consultation paper. The relevant time periods are those to be taken into account when calculating the PSR IFR fees applicable for 2016/17 to individual participants.

4.47 For each of the card payment systems below, the following definitions and methodologies apply:

- a. **'Transactions by acquirers and card issuers operating in the UK'** means:
- On the acquiring side:
    - All transactions acquired by UK-based acquirers (or operator acting as such an acquirer) resulting in payments to merchants located in the UK, and where the card issuer is located in the EEA
    - All transactions acquired by UK-based acquirers (or operator acting as such an acquirer) resulting in payments to merchants located outside the UK, and where the card issuer is located in the EEA
    - All transactions acquired by EEA-based acquirers (based outside the UK) (or operator acting as such an acquirer) resulting in payments to merchants located in the UK, and where the card issuer is located in the EEA
  - On the issuing side: all transactions on cards issued by UK-based card issuers (or operator acting as such a card issuer), where the acquirer is located in the EEA
- b. **All transactions** by acquirers or card issuers operating in the UK, or the operator acting as such an acquirer or card issuer, under the relevant card payment systems are taken into account, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards (such as buying foreign currency at a bureau de change or getting cashback when buying groceries at a supermarket), but excluding cash-only withdrawals (such as from ATMs or over the counter).
- c. There is a **minimum transaction volume threshold** for each of the IFR card payment systems. This means an acquirer or card issuer operating in the UK is not required to pay a PSR fee in the given fee year, and the UK transaction volumes that they realise are to be excluded from the total transaction volumes under each IFR card payment system used for fee calculation purposes, if:
- any such PSP has acquired and issued fewer than 100,000 relevant UK transactions in the relevant time period, or
  - the PSR fee it would normally pay, as calculated according to the fees rules, would be less than £50 for the current fee year if the minimum transaction volume threshold was not applied
- d. Where an **IFR card payment system is exempt** from paying a PSR fee in a given fee year under our three-tier approach, the UK transaction volumes relating to that card system are not taken into account for fee calculation purposes.

4.48 The 2016/17 PSR fee calculation methodologies for each IFR card payment system are set out below:

- a. **American Express (AmEx):** The PSR fee to be recovered from individual acquirers and card issuers operating in the UK that are members or licensees of the AmEx card payment system, or from the operator where it is acting as such an acquirer and/or card issuer in the UK, will be calculated proportionally to the transaction volumes issued and acquired on behalf of that acquirer, card issuer or operator acting as such an acquirer or card issuer under the AmEx card payment system in the UK during the relevant time period. For the year 2016/17 the relevant time period for transaction volumes issued and acquired under the AmEx card

payment system in the UK is between 1 January and 31 December 2015. All AmEx-branded transactions are included irrespective of the processing entity (AmEx itself, a third party processing entity or 'on us' transactions).

If all individual acquiring and card-issuing PSPs operating in the UK under the AmEx card payment system fall below the minimum transaction volume threshold in a given fee year, the PSR fee will be payable by the AmEx operator.

- b. **Diners Club International:** The PSR fee to be recovered from individual acquirers and card issuers operating in the UK that are members or licensees of the Diners Club card payment system, or from the operator where it is acting as such an acquirer and/or card issuer in the UK card payment system, will be calculated proportionally to the transaction volumes issued and acquired on behalf of that acquirer, card issuer or operator under the Diners Club card payment system in the UK during the relevant time period. For the year 2016/17 the relevant time period for transaction volumes issued and acquired under the Diners Club payment system in the UK is between 1 January and 31 December 2015. All Diners Club-branded transactions are included irrespective of the processing entity (Diners itself, a third party processing entity or 'on us' transactions).

If all individual acquiring and card-issuing PSPs operating in the UK under the Diners Club card payment system fall below the minimum transaction volume threshold in a given fee year, the PSR fee will be payable by the Diners Club operator.

- c. **JCB International:** The PSR fee to be recovered from individual acquirers and card issuers operating in the UK that are members or licensees of the JCB card payment system, or from the operator where it is acting as such an acquirer and/or card issuer in the UK will be calculated proportionally to the transaction volumes issued and acquired on behalf of that acquirer, card issuer or operator under the JCB card payment system in the UK during the relevant time period. For the year 2016/17 the relevant time period for transaction volumes issued and acquired under the JCB card payment system in the UK is between 1 January and 31 December 2015. All JCB-branded transactions are included irrespective of the processing entity (JCB itself, a third party processing entity or 'on us' transactions).

If all individual acquiring and card-issuing PSPs operating in the UK under the JCB card payment system fall below the minimum transaction volume threshold in a given fee year, the PSR fee will be payable by the JCB card payment system.

- d. **MasterCard:** The PSR fee to be recovered from individual acquirers and card issuers operating in the UK that are members or licensees of the MasterCard card payment system, or from the operator where it is acting as such an acquirer or card issuer in the UK, will be calculated proportionally to the transaction volumes issued and acquired on behalf of that acquirer, card issuer or operator under the MasterCard card payment system in the UK during the relevant time period. For the year 2016/17 the relevant time period for transaction volumes issued and acquired under the MasterCard card payment system in the UK is between 1 January and 31 December 2015. All MasterCard-branded transactions are included irrespective of the processing entity (MasterCard itself, a third party processing entity or 'on us' transactions).
- e. **Union Pay International (UPI):** The PSR fee to be recovered from individual acquirers and card issuers operating in the UK that are members or licensees of the UPI card payment system, or from the operator where it is acting as such an acquirer or card issuer in the UK will be calculated proportionally to the transaction volumes issued and acquired on behalf of that acquirer, card issuer or operator under the UPI card payment system in the UK during the relevant time period. For the year 2016/17 the relevant time period for transaction volumes issued and acquired under the UPI card payment system in the UK is between 1 January and



31 December 2015. All UPI-branded transactions are included regardless of the processing entity (UPI itself, a third party processing entity or 'on us' transactions).

If all individual acquiring and card-issuing PSPs operating in the UK under the UPI card payment system fall below the minimum transaction volume threshold in a given fee year, the PSR fee will be payable by the UPI operator.

- f. **Visa Europe:** The PSR fee to be recovered from individual acquirers and card issuers operating in the UK that are members or licensees of the Visa card payment system, or from the operator where it is acting as such an acquirer or card issuer in the UK, will be calculated proportionally to the transaction volumes issued and acquired on behalf of that acquirer, card issuer or operator under the Visa system in the UK during the relevant time period. For the year 2016/17 the relevant time period for transaction volumes issued and acquired under the Visa regulated payment system in the UK is between 1 January and 31 December 2015. All Visa-branded transactions are included irrespective of the processing entity (Visa itself, a third party processing entity or 'on us' transactions).

**Q7: Do you agree with our proposal to use the same fee calculation methodology relating to the funding of IFR functions and activities in 2016/17 as we propose to use for PSR FSBRA fees, adapted to also capture operators acting as such acquiring and/or card-issuing PSPs?**

**Q8: Do you agree with our proposal to apply the same minimum threshold for IFR card payment systems (relating to which PSPs are liable to pay PSR fees) for the funding of IFR functions and activities in 2016/17 as we propose to continue to apply for PSR FSBRA fees?**

**Q9: Do you agree with our proposed approach that where all of the acquiring and card-issuing PSPs in an IFR card payment system are below the minimum threshold, any PSR fee which is due will be paid by the operator?**

## Summary of our proposals in relation to 2016/17 PSR fees to fund IFR functions and activities

- 4.49 Table 6 summarises the proposed allocation methodology between IFR card payment systems, and sets out the proposed PSR fee calculation methodology within individual IFR card payment systems, for the funding of IFR functions and activities:

**Table 6: Table relating to FEES 9 Annex 1R Tables B and C – Proposed allocation methodology by IFR card payment system and proposed calculation methodology for PSR IFR fee payable by participants within those card payment systems**

IFR card payment system	Proposed allocation methodology across IFR card payment systems			Proposed calculation methodology for PSR fee payable by participants in IFR card payment systems
	Approach	%	£	
JCB Europe	Fee exempt	0	0	Not applicable
UPI	Fee exempt	0	0	
Diners Club	Flat fee	0.5%	~£7,500	The <b>PSR fee is calculated</b> for each individual acquiring and card-issuing PSP operating in the UK (or operator acting as such an

IFR card payment system	Proposed allocation methodology across IFR card payment systems			Proposed calculation methodology for PSR fee payable by participants in IFR card payment systems
	Approach	%	£	
				<p>acquirer or card issuer) proportionally to the transaction volumes issued and acquired on behalf of that acquiring or card-issuing PSP (or operator acting as such an acquirer or card issuer) under the IFR card payment system in question during the relevant time period.</p> <p>A <b>minimum threshold</b> is applied where an acquiring or card-issuing PSP operating in the UK (i) has acquired and issued less than 100,000 relevant UK transactions in the relevant time period, or (ii) the PSR fee it would normally pay calculated according to the fee calculation fees rules would be less than £50 for the current fee year (absent the minimum threshold). If all individual acquiring and card-issuing PSPs operating in the UK under the IFR card payment system in question fall below the minimum threshold in a given fee year, the <b>PSR fee will be payable by the operator.</b></p>
AmEx	Equal allocation = 1/3	33.2%	~£497,500	<p>The <b>PSR fee is calculated</b> for each individual acquiring and card-issuing PSP (or operator acting such as an acquirer or card issuer) operating in the UK proportionally to the transaction volumes issued and acquired on behalf of that acquiring or card-issuing PSP (or operator acting as such an acquirer or card issuer) under the IFR card payment system in</p>
MasterCard	Equal allocation = 1/3	33.2%	~£497,500	
Visa	Equal allocation = 1/3	33.2%	~£497,500	

IFR card payment system	Proposed allocation methodology across IFR card payment systems			Proposed calculation methodology for PSR fee payable by participants in IFR card payment systems
	Approach	%	£	
				question during the relevant time period. A <b>minimum threshold</b> is applied where an acquiring or card-issuing PSP operating in the UK (i) has acquired and issued less than 100,000 relevant UK transactions in the relevant time period, or (ii) the PSR fee it would normally pay calculated according to the fee calculation fees rules would be less than £50 for the current fee year (absent the minimum threshold).
Total		100.0%	~£1.5 million	

Note: Figures may not sum exactly due to rounding

# 5

## Proposed amendments to fees rules and compatibility statement

This chapter sets out the proposed amendments to the fees rules to give effect to our proposals regarding our 2016/2017 PSR fees for the funding of our FSBRA and IFR functions and activities

This chapter also sets out some additional technical modifications we are proposing to the fees rules, in particular:

- modification to the definition of 'transactions by acquirers/card issuers operating in the UK' for FSBRA to align more with the definition for IFR
- modification to the minimum threshold to make it clearer
- modification of the rule relating to operators supplying their fee calculations and underlying data to the PSR
- modification of the on-account rule to align with modifications being consulted on by the FCA
- introduction of a rule relating to fee liability in the event of a business being acquired/transferred

This chapter also sets out our assessment of why our proposals are compatible with both the FCA's duties and the PSR's regulatory principles

### Amendments to fees rules

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#### Proposed amendments to fees rules

- 5.1 This section sets out a summary of the proposed amendments to the fees rules giving effect to our proposals set out in Chapters 3 and 4. The current fees rules (*FEES 9*) are available at <http://fshandbook.info/FS/html/handbook/FEES/9>. The draft fees instrument is included as Annex 1 to this document.<sup>22</sup>

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<sup>22</sup> References are to existing provisions in the fees rules set out in FEES 9 (and to a lesser extent in FEES 1). In the online version of the fees rules and in the attached Annex 1 setting out the draft fees instrument amending the fees rules, defined terms are italicised. The letter 'R' denotes a legally binding fees rule (e.g. FEES 9.1.1R) while the letter 'G' denotes fees guidance (e.g. FEES 9.1.2G).

- 5.2 These proposed amendments to the fees rules are intended to take effect from 1 April 2016 (in other words, they will apply for the fee year 2016/17 onwards).<sup>23</sup>
- 5.3 The main proposed amendments to the fees rules are as follows:
- a. **IFR:** Proposed amendments to fees rules specifically in relation to the IFR, to give effect to our proposals on the introduction of a flat fee for systems below a certain size, equal allocation of the IFR AFR among card systems which do not benefit from the flat fee, and extension of the minimum threshold rule for FSBRA-regulated card payment systems to apply to IFR card payment systems, as well as the proposed introduction of Tables B and C in FEES 9 Annex 1R to reflect the proposed IFR allocation, calculation and collection methodologies for 2016/17.
  - b. **FSBRA:** Proposed amendments to the existing fees rules specifically in relation to FSBRA to align with some proposed amendments in relation to the IFR, as well as proposed amendment of Table A in FEES 9 Annex 1R to reflect the proposed FSBRA allocation, calculation and collection methodologies for 2016/17.
  - c. **General:** Proposed amendments to the fees rules across both FSBRA and IFR to address some specific questions received from operators after the publication of our policy statement PS15/25 and the fees rules which took effect from 27 October 2015, and to propose a modification of the on-account rule from 2016/17 onwards.

### Proposed amendments to fees rules specifically in relation to the funding of our IFR functions and activities

- 5.4 We are proposing a number of specific amendments to the fees rules to give effect to the proposals concerning the funding of our IFR functions and activities, as well as extending specific existing fees rules to cover IFR fees.
- 5.5 These proposed amendments to existing fees rules and new fees rules in relation to IFR are described below:
- a. **Definitions:** adding IFR-specific definitions, which reflect the legislative framework provided by the IFR and the 2015 Regulations and which are, to the extent appropriate, aligned with the existing definitions in the fees rules - see the proposed glossary in Annex A to the draft fees instrument included at Annex 1 to this consultation paper.<sup>24</sup>
  - b. **Scope of fees rules (extended in relation to IFR):**
    - i. Extending the applicability of the existing fees rules (*FEES 1* and *FEES 9*) to IFR card payment systems and their participants – see proposed amended *FEES 1.1.2AR*.
    - ii. Extending the existing fees rules to also cover operators of IFR card payment systems – see proposed amended *FEES 9.1.1R* and *9.1.2G*.

<sup>23</sup> The proposed modifications to the on-account rule will only impact on the on-account payment due in March 2017 for the 2017/18 fee year, not for the on-account payment due in April 2016 for the 2016/17 fee year.

<sup>24</sup> New definitions proposed to be introduced in relation to the IFR are: 2015 Regulations, AmEx, Diners Club, IFR, IFR card payment system, IFR transactions by acquirers operating in the United Kingdom, IFR transactions by card issuers operating in the United Kingdom, JCB, regulated person, and UPI.

Existing definitions proposed to be amended in relation to the IFR are: direct access, direct payment service provider, FSBRA, MasterCard, operator, participant, payment service provider, payment system, processing entity, PSR fee, payment system allocation, payment system denominator, relevant time period, transaction volumes, transactions by acquirers operating in the United Kingdom, transactions by card issuers operating in the United Kingdom, and Visa.

- iii. Updating the fees rules in relation to who the FCA (on behalf of the PSR) can levy fees from to fund the PSR's functions and activities to include regulated persons (as defined under the IFR) – see proposed amended *FEES* 9.1.4G.
  - iv. Introducing guidance that PSR fees in relation to the funding of the PSR's functions and activities in relation to regulated payment systems shall be levied on participants in regulated payment systems, while funding in relation to the PSR's functions and activities in relation to the IFR shall be levied on regulated persons. – see proposed new *FEES* 9.1.4G(4).
- c. **Obligation to pay PSR fees (extended to participants in IFR card systems):**
- i. Adding a new requirement that where the operator of an IFR card payment system also acts as an acquirer and/or card issuer operating in the UK, whether through separate legal entities or not, that operator should bear a share of the PSR regulatory fee for that IFR card payment system as if it were a separate acquirer and/or card issuer – see proposed amended *FEES* 9.2.1R, certain proposed new definitions<sup>25</sup> and the proposed new Table C of *FEES* 9 Annex 1R.
  - ii. Adding a new requirement that where there is no individual acquirer or card issuer operating in the United Kingdom which is a member or licensee of a given IFR card payment system and which is above the minimum volume threshold, liability for paying the PSR regulatory fee is to be borne by the operator of the IFR card payment system in question – see proposed amended *FEES* 9.2.1R and proposed new *FEES* 9.2.1CR.
- d. **Minimum threshold for acquirers and card issuers operating in the UK under IFR card payment systems:**
- Applying the existing minimum transaction volume threshold applicable to regulated card payment systems also to IFR card payment systems – see proposed amended *FEES* 9.2.1BR . This amendment means that individual acquiring and card-issuing PSPs benefit from an exemption from PSR fees (and their transaction volumes are not included in the payment system denominator for that IFR card payment system for that fee year for fee calculation purposes) if they meet one of the following thresholds:
- i. The PSR fee for that acquirer or card issuer calculated as set out in *FEES* 9 Annex 1R would be less than £50 for the current fee year (in the absence of the minimum threshold) - see proposed amended *FEES* 9.2.1BR (1) (a), or
  - ii. An acquirer or card issuer realises less than 100,000 UK transactions (i.e. IFR transactions by an acquirer operating in the United Kingdom plus IFR transactions by a card issuer operating in the United Kingdom) in the relevant time period - see proposed amended *FEES* 9.2.1BR (1) (b).
- e. **'System size' tiers:**
- i. Applying the same minimum threshold expressed as 100,000 UK transactions to entire IFR card payment systems – see proposed new *FEES* 9.2.1BR (2). This new rule means that if less than 100,000 issued and acquired transactions are realised under that IFR card payment system operating in the UK in a given fee year, that IFR card payment system and its participants are exempted from paying any PSR fees, as no payment system allocation for IFR will be made to that payment system.

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<sup>25</sup> Definitions of 'IFR transactions by acquirers operating in the UK' and 'IFR transactions by card issuers operating in the UK'.

- ii. Adding proposed new 'systems size' tiers for IFR card payment systems which determine, based on UK transaction volumes realised in the relevant time period, whether an IFR card payment system is exempted from paying PSR regulatory fees (as above), pays a flat fee, or has an equal allocation of the annual funding requirement for IFR functions and activities (along with other IFR card payment systems in that tier) – see proposed new Table B in *FEES 9 Annex 1R*.
  - iii. The proposed new Table B in *FEES 9 Annex 1R* also indicates that each IFR card payment system in the middle tier is subject to a flat fee, which is proposed to be set at 0.5% of the total 2016/17 funding requirement relating to the PSR's IFR functions and activities (see column 5, tier 2 in the proposed new Table B of *FEES 9 Annex 1R*).
- f. **Method of payment and invoicing:**
- i. Applying to IFR card payment systems the existing requirement on acquiring and issuing PSPs to pay their PSR fees to the operator of each relevant payment system, acting as our collection agents – see proposed amended *FEES 9.2.4AR*.
  - ii. Applying to operators of IFR card payment systems the existing requirement on operators to pay the amounts they have collected to us – see proposed amended *FEES 9.2.4BR*.
  - iii. Applying to operators of IFR card payment systems the existing requirement on operators to issue separate invoices to their acquirers and card issuers (without adding any other charges, fees, administrative or handling fees) – see proposed amended *FEES 9.2.4CR(1)* and existing *FEES 9.2.4CR (2)*.
  - iv. Applying to operators of IFR card payment systems the existing requirement on operators to issue invoices on a sufficiently timely basis to enable their acquiring and issuing PSPs to pay their PSR fee on time – see existing *FEES 9.2.4CR (3)*.
  - v. Applying to operators of IFR card payment systems the existing requirement on operators to provide to the PSR their fees calculations for individual acquirers and card issuers and the related underlying data – see proposed amended *FEES 9.2.4DR (1)* and (2).
  - vi. Applying to operators of IFR card payment systems the existing requirement on operators to pay the monies collected, acting as our collection agents, to the FCA by electronic transfer unless otherwise advised by the operator – see proposed amended *FEES 9.2.4EG*.
- g. **Time of payment:**
- i. Applying to IFR card payment systems the existing dates by which acquiring and issuing PSPs must pay their PSR fees to the operators of the IFR card payment systems in question (by 15 August,<sup>26</sup> unless the on-account rules apply – see also paragraph 5.16) – see proposed amended *FEES 9.2.2R* and *9.2.3R*.
  - ii. Applying to operators of IFR card payment systems the existing dates by which the operators must pay the amounts that they have collected to us acting as collection agents (by 30 August,<sup>27</sup> unless the on-account rules apply – see also paragraph 5.16) – see *FEES 9.2.2A* and *9.2.3A*.

<sup>26</sup> If the on-account rule does not apply, the fee-payers must pay the entire PSR fee by 15 August of that fee year (see *FEES 9.2.3R (1)*), or, if later, within 30 days of the date of the invoice (see *FEES 9.2.3R (2)*).

<sup>27</sup> If the on-account rule does not apply, the operator must pay the monies collected by 30 August of that fee year (see *FEES 9.2.3AR(1)*), or, if later, within 15 days of when payment is received (*FEES 9.2.3AR(2)*).

- iii. Applying to participants in IFR card payment systems the existing on-account rules – see FEES 9.2.2R, 9.2.2AR, 9.2.2BR, 9.2.3R, 9.2.3AR and 9.2.3BR – on-account rules are also discussed in greater detail in paragraphs 5.15 to 5.18.
- iv. Introducing a requirement for payment dates when the operator of an IFR card payment system is liable to pay PSR regulatory fees itself – these dates are aligned to those that apply to payments due from acquirers and card issuers in IFR card payment systems – see proposed new FEES 9.2.2BR and 9.2.3BR.
- v. Applying to operators of IFR card payments transitional provisions – see FEES 9.2.2BR.

h. **Ceasing to be a regulated person:**

Applying the existing rules which set out what happens if a regulated payment system ceases to be designated by the Treasury, to also cover the situation of an IFR card payment system ceasing to be subject to the IFR, or an operator, acquirer or card issuer ceasing to be a regulated person as defined in the IFR – see proposed amended FEES 9.2.5R, 9.2.6R and 9.2.6AR.

i. **Late payments and reduction, remission and repayment of fees:**

Applying the existing rules on late payment penalties and relieving provisions to reflect that liability for payment of the PSR fee rests with the acquiring and issuing PSPs (and operators acting as such acquirers or card issuers) of IFR card payment systems, and setting out how unpaid fees can be recovered – see proposed amended FEES 9.2.7 and 9.2.10, and existing FEES 9.2.7A.

5.6 The proposed **fee calculation methodology** for the various IFR card payment systems (to which a payment system allocation is made under the 'system size' test) is set out in the proposed Table C of FEES 9 Annex 1R. This is largely aligned with the corresponding methodology for FSBRA regulated card payment systems. Specifically:

- a. The relevant time period is 1 January to 31 December 2015. See column 4 of Table C of FEES 9 Annex 1R.
- b. The relevant IFR transaction volumes include the following - see column 5 of Table C of FEES 9 Annex 1R:
  - i. All transactions by acquirers and card issuers operating in the United Kingdom (or by the operator of that IFR card payment system acting as such an acquirer or card issuer) under that IFR card payment system, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals.
  - ii. All transactions under the brand of that IFR card payment system irrespective of the processing entity (the operator or the IFR card payment system itself, a third party processing entity or 'on us' transactions).
  - iii. Both issuing and acquiring transactions are taken into account as separate transactions for each IFR card payment system (including transactions when the operator of an IFR card payment system itself acts as an acquirer and/or card issuer).
- c. The payment system denominator (see column 6 of Table C of FEES 9 Annex 1R) for each IFR card payment system will reflect the data collected from operators of IFR card payment systems between January and March 2016, and reflects all of the IFR transactions volumes realised under each IFR card payment system in the relevant time period. This data will be set out in our March 2016 consultation on fee levels.



- d. The minimum threshold set out in *FEES* 9.2.1BR (1) and in tier 1 of the system size test (in Table B of *FEES* 9 Annex 1R) applies to IFR card payment systems operating in the UK with less than 100,000 acquired and issued UK transactions. This impacts on the payment system allocation (see column 2 of Table C of *FEES* 9 Annex 1R) and on the payment system denominator (in column 6 of Table C of *FEES* 9 Annex 1R).
- e. The minimum threshold set out in *FEES* 9.2.1BR (2) applies to individual acquirers and card issuers operating in the UK under IFR card payment systems. This impacts on which PSPs are liable to pay PSR fees, and on the value of the payment system denominator in column 6 of Table C of *FEES* 9 Annex 1R.
- f. The fee calculation methodology for individual acquirers, card issuers and operators of IFR card payment systems acting as an acquirer or card issuer is that the PSR fee is proportional to the relevant transaction volumes under the IFR card payment system in question during the relevant time period. The calculation formula is: payment system allocation multiplied by acquirer or card issuer's (or, when acting as an acquirer or card issuer, the operator's) relevant transaction volumes divided by payment system denominator. See column 3 of Table C of *FEES* 9 Annex 1R.

5.7 In CP15/26 we proposed to not introduce fees rules to cover certain situations. In that consultation, we did not receive any comments on these proposals, which we considered were still warranted, and accordingly no fees rules were introduced on these topics in PS15/25. We consider that it is similarly not necessary to introduce such rules in relation to the funding our IFR functions and activities, as follows:

- a. We have not introduced specific fees rules on what happens when a payment system is designated for FSBRA regulation (as we will conduct a separate consultation at that time). With respect to IFR card payment systems, there is no formal designation process, so **fee liability** will arise once an IFR card payment system and its participants are regulated persons (within the meaning of the IFR) and start to operate in the UK. The proposed 'system size' test (see paragraph 4.20 and proposed Table B in *FEES* 9 Annex 1R) already address the scenario of a new IFR card payment system entering or expanding its operations into the UK, as until that IFR card payment system reaches 100,000 relevant UK transactions, it (and all of its participants) would benefit from exemption from PSR regulatory fees (for funding of IFR functions and activities) under the proposed fee rule at *FEES* 9.2.1A and Table B in *FEES* 9 Annex 1R.
- b. We have not introduced a specific rule covering what happens when a PSP becomes a direct member, acquirer or card issuer of a regulated payment system during the course of a fee year. This means that for the time being, that new PSP member will not be required to pay PSR fees (in relation to funding of FSBRA functions and activities) to operators in the fee year in which they have become a direct PSP member, acquirer or card issuer of a regulated payment system, reflecting the fact that at the time they become a direct PSP member, acquirer or card issuer, their historic transaction volumes in the reference year (typically the calendar year which precedes the current fee year) are nil. We propose to adopt the same approach for **new participants in IFR card payment systems**. This means that in the first financial year in which an acquirer or card issuer starts to operate in the UK, they would not be liable to pay PSR regulatory fees. They would only become liable to pay PSR fees in the first full financial year in which they operate in the UK as acquirers or card issuers (or operators acting as such an acquirer or card issuer). In addition, it should be noted that until an acquirer or card issuer operating in the UK exceeds one of the minimum thresholds (100,000 UK acquired and issued transactions, or a PSR fee calculated at £50), it will individually benefit from an exemption from paying PSR regulatory fees.

**Q10: Do you agree with our proposed amendments to the existing fees rules and new fees rules set out above to give effect to our proposals set out in Chapter 4 in relation to the funding of our IFR functions and activities?**

## Proposed amendments to fees rules specifically in relation to FSBRA

- 5.8 We are proposing some minor amendments to the fees rules in relation to our FSBRA funding requirement to align with some of our proposed amendments in relation to our proposals in respect of our IFR funding requirement, as well as setting out the proposed amendments of Table A in FEES 9 Annex 1R to reflect the proposed FSBRA allocation, calculation and collection methodologies for 2016/17.
- 5.9 We are proposing to modify **definitions** relating to regulated payment systems as follows to align with language used in relation to the IFR:
- a. We are proposing to modify the definition of ‘transactions by acquirers operating in the United Kingdom’ and of ‘transactions by card issuers operating in the United Kingdom’, to include ‘**(or an operator acting as such an acquirer or card issuer)**’ after acquirer or card issuer. We recognise that at present, MasterCard and Visa both act as four-party card systems and do not currently acquire or issue cards themselves in the United Kingdom. However, we consider that it is helpful to align definitions as much as is possible taking into account differences in the legal frameworks applicable to FSBRA and IFR, and to include ‘future proof’ language which can cope with changes in future business models.
  - b. We are also proposing to **delete the words ‘irrespective of where the cardholder is located or the payment is initiated’** in the definition of ‘transactions by card issuers operating in the United Kingdom’ to make the definition simpler.
  - c. The IFR legal framework is limited to the EEA and it is therefore appropriate for the definitions of ‘transactions by acquirers operating in the United Kingdom’ and of ‘transactions by card issuers operating in the United Kingdom’ to reflect this geographic scope. However, there is **no corresponding geographic limitation in FSBRA**. We are therefore not proposing to introduce the language ‘where the card issuer is located in the EEA’ into the definition of ‘transactions by acquirers operating in the United Kingdom’, and similarly we are not proposing to introduce ‘where the acquirer is located in the EEA’ into the definition of ‘transactions by card issuers operating in the United Kingdom’.
- 5.10 The proposed **fee calculation methodologies** for the various regulated payment systems are set out in the proposed amendments to Table A of FEES 9 Annex 1R, and above at paragraph 3.37. This is largely aligned with the methodology used in 2015/16, except as indicated otherwise below. Specifically:
- a. The relevant time period is 1 January to 31 December 2015, except for C&C where it is 1 July to 31 December 2015 and NICC where the relevant date is 31 December 2015. See column 4 of Table A of FEES 9 Annex 1R.
  - b. The relevant transaction volumes vary depending on the individual regulated payment system, as set out above in paragraph 3.37 and in column 5 of Table A of FEES 9 Annex 1R. Changes compared to the 2015/16 fee calculation methodologies are as follows:
    - i. For Bacs, CHAPS and FPS, we are proposing to specify that transaction volumes include both the initiation of the transfer of funds and the receiving of transferred funds.
    - ii. This approach is already reflected in the description of transaction volumes for C&C (‘in clearing’ and ‘out clearing’) and LINK (which refers to issued and acquired transactions, and specifies that both issuing and acquiring transactions are taken into account), so no modification is needed for those systems.
    - iii. For MasterCard and Visa, the description of transaction volumes already refers to issued and acquired transactions, and we are proposing to align the language with LINK (and the IFR card

payment systems) by specifying that both issuing and acquiring transactions are taken into account (we note that this is already how MasterCard and Visa are applying the relevant fees rules).

- c. The payment system denominator (see column 6 of Table A of FEES 9 Annex 1R) for each IFR card payment system will reflect the data collected from operators of regulated payment systems between January and March 2016, and reflects all of the relevant transactions volumes realised in the relevant time period. This data will be set out in our March 2016 consultation on fee levels.
- d. The minimum threshold set out in FEES 9.2.1AR (1) and (2) applies to individual acquirers and card issuers operating in the UK under the MasterCard and Visa card payment systems. This impacts on which PSPs are liable to pay PSR fees, and on the value of the payment system denominator in column 6 of Table A of FEES 9 Annex 1R.
- e. We propose to modify the fee calculation methodologies as follows:
  - i. For Bacs, C&C, CHAPS, FPS and LINK, we are proposing adding the word 'relevant' to transaction volumes for added clarity. The PSR fee would be calculated for each individual direct payment service provider proportionally to the *relevant* transaction volumes processed on behalf of that direct payment service provider through the regulated payment system in question during the relevant time period. The calculation formula would be: payment system allocation multiplied by direct payment service provider's *relevant* transaction volumes divided by payment system denominator. See column 3 of Table A of FEES 9 Annex 1R.
  - ii. For MasterCard and Visa, we are proposing adding '(or the operator of that regulated card payment system acting as an acquirer or card issuer)' after acquirer and card issuer to more closely align with the corresponding text in relation to the IFR. The PSR fee would be calculated for each individual acquirer and card issuer (*or the operator of that regulated card payment system acting as such an acquirer or card issuer*) proportionally to the relevant transaction volumes under the regulated card payment system in question during the relevant time period. The calculation formula would be: payment system allocation multiplied by acquirer or card issuer's (*or, when acting as an acquirer or card issuer, the operator's*) relevant transaction volumes divided by payment system denominator. See column 3 of Table A of FEES 9 Annex 1R.
  - iii. For NICC we are not proposing any change in the fee calculation methodology.

**Q11: Do you agree with our proposed amendments to the existing fees rules set out above to give effect to our proposals set out in Chapter 3 in relation to the funding of our FSBRA functions and activities?**

## **Other proposed amendments to fees rules in relation to both FSBRA and IFR**

- 5.11 We are proposing a number of other amendments to the fees rules across both FSBRA and IFR to address some specific questions received from operators after the publication of our policy statement PS15/25 and the fees rules which took effect from 27 October 2015, These modifications relate to the following:
  - a. modification to the minimum threshold to make it clearer
  - b. modification of the rule relating to operators supplying their fee calculations and underlying data to the PSR

- c. modification of the on-account rule from 2016/17 onwards to align with modifications being consulted on by the FCA
  - d. introduction of a rule relating to fee liability in the event of a business being acquired/transferred
- 5.12 We are proposing an **amendment to the minimum threshold** for both FSBRA and IFR card payment systems to make it clearer that the 100,000 transaction volumes alternative in the minimum threshold relates to the **total issued and acquired transaction volumes** realised by acquirers and card issuers operating in the UK under the relevant card payment system in question. This amendment makes it clearer that if a PSP has significant acquiring (or card-issuing) transaction volumes in the UK, but insignificant volumes of the other (card-issuing or acquiring as the case may be) activity, that PSP will still be required to pay PSR fees. The intention of the minimum threshold is to exempt from fees those fee-paying PSPs which have very modest UK transaction volumes overall, not merely limited activities of one type. The proposed amendments are to *FEES* 9.2.1AR and to 9.2.1BR: 9.2.1AR and 9.2.1BR (1) relate to the £50 PSR fee alternative threshold, 9.2.1AR (2) and 9.2.1BR (1) relate to the 100,000 UK transactions threshold in relation to acquirers and card issuers in regulated payment systems, and 9.2.1BR(2) relates to the 100,000 UK transactions threshold in relation to acquirers and card issuers in IFR card payment systems.
- 5.13 We are also proposing an amendment to the existing requirement on operators to provide to the PSR their **fees calculations and related underlying data** with respect to their individual acquirers and card issuers as follows – see *FEES* 9.2.4DR (1) and (2).
- a. We are proposing to modify paragraph (2) of *FEES* 9.2.4DR regarding the **timing** of when fee calculations and underlying data relating to individual fee-paying PSPs must be provided by operators to the PSR. The proposed modified text makes it clear that, first, this information must be provided by operators to the PSR as soon as possible once *FEES* 9 Annex 1R is updated for a fee year and, second, operators must obtain the PSR's agreement to the individual PSR fees they have calculated for their PSPs on a sufficiently timely basis to be able to issue invoices in accordance with *FEES* 9.2.4CR. This will enable the PSR to review the fee calculations and underlying data before invoices are issued to fee-paying PSPs, and to address any concerns or issues at once. This proposed amendment is set out in the amended *FEES* 9.2.4DR(2).
  - b. We are also proposing to introduce a new paragraph (3) in *FEES* 9.2.4DR regarding **late/non-payers**. In 2015/16, we have asked operators of regulated payment systems to advise the PSR immediately after the PSPs' payment deadline of 10 December 2015 (set out in TP12.1R) of any PSPs that have not paid their PSR fees in full. We are proposing to write this into the fees rules as an obligation on operators, to ensure that we are provided with the relevant data about PSPs who have not paid, or not paid in full, on a timely basis their PSR regulatory fees, to enable us to liaise with these PSPs as soon as possible. This proposed amendment is set out in the proposed new *FEES* 9.2.4DR(3).
- 5.14 We are proposing to modify the **on-account rule from 2017 onwards** to align with modifications for the year 2016/17 consulted by the FCA. The purpose of the on-account rule is to help with our cash flow. If a fee-payer was liable for £20,000 or more in the previous year it is required to pay 50% of the current year's fee by 15 April, with operators required to pay the collected monies to us by 30 April. As the fee year runs from 1 April to 31 March, this means that for the month of April, the PSR must borrow money to fund its activities. Bringing the on-account payment date earlier would provide revenue at the start of our financial year, when there are no fee-income receipts, and help with the management of our cash flow.

- 5.15 The FCA is currently consulting on modifying its on-account payment date from 30 April to 1 April for the same reasons – see Chapter 5 of CP15/34.<sup>28</sup>
- 5.16 The amendments we are proposing to our on-account payment dates are as follows:
- a. If the on-account rule applies:
    - i. Payment of 50% of previous year's PSR regulatory fee by fee-paying PSPs to operators (acting as collection agents) by **15 March** instead of 15 April (see *FEES* 9.2.2R(1)).
    - ii. Payment of 50% of previous year's PSR regulatory fee by operators of IFR card payment systems acting as acquirers and/or card issuers to us by **15 March** instead of 15 April (see *FEES* 9.2.2BR(1)).
    - iii. Payment of the monies collected by operators to us by **1 April** instead of 30 April (see *FEES* 9.2.2AR(1)).
    - iv. Payment of the remainder of the current year's PSR regulatory fee by fee-paying PSPs to operators (acting as collection agents) by **15 August** (unchanged - see *FEES* 9.2.2R(2)).
    - v. Payment of the remainder of the current year's PSR regulatory fee by operators of IFR card payment systems acting as acquirers and/or card issuers to us by **15 August** (unchanged - see *FEES* 9.2.2BR(2)).
    - vi. Payment of the monies collected by operators to us by **1 September** (unchanged - see *FEES* 9.2.2AR(2)).
  - b. Out of completeness, we can confirm that if the on-account rule does not apply, the payment dates are unchanged, as follows:
    - i. Payment of the full PSR regulatory fee by fee-paying PSPs to operators (acting as collection agents) by 15 August or, if later, within 30 days of the date of the invoice (unchanged - see *FEES* 9.2.3R).
    - ii. Payment of the full PSR regulatory fee by operators of IFR card payment systems acting as acquirers and/or card issuers to us by 15 August or, if later, within 30 days of the date of the invoice (unchanged - see *FEES* 9.2.3BR).
    - iii. Payment of the monies collected by operators to us by 30 August or, if later, within 15 days of the date monies are paid to the operator by fee-paying PSPs (unchanged - see *FEES* 9.2.3AR).
- 5.17 These proposed changes to the on-account rules would mean that on-account payments due in 2017 for the 2017/18 PSR regulatory fees would need to be made approximately a month earlier (March 2017 instead of April 2017).
- 5.18 Finally, we are proposing the **introduction of a rule relating to fee liability in the event of a PSP business being acquired/transferred**. This question has arisen in relation to some specific fact scenarios for the 2015/16 PSR regulatory fees, and we therefore consider that it is desirable to have a fees rule on this so as to provide legal certainty and transparency to persons contemplating divesting or acquiring businesses that realise transaction volumes in relation to regulated payment systems and/or IFR card payment systems, so that those persons can make appropriate contractual arrangements regarding the paying of relevant PSR fees.

<sup>28</sup> See 'Regulatory fees and levies: policy proposals for 2016/17' (CP15/34) published on 5 November 2015 at <http://www.fca.org.uk/news/cp15-34-regulatory-fees-and-levies-proposals-for-2016-17>

- 5.19 We consider that it is more appropriate for the PSR fee in relation to transferred volumes to be paid by whoever owns the business at the time when the fee liability arises, rather than by whoever owned the business in the reference year (when the volumes actually occurred). This seems to us to be more consistent with what one would generally expect when someone acquires another business, as the acquirer will get all of the benefits of the acquired business, as well as the liabilities, going forward.
- 5.20 This means that if a business (B) realises relevant transaction volumes in 2015, and is sold to another fee-paying PSP (A) in (for example) February 2016, then A's liability for PSR fees in the fee year 2016/17 (which runs from 1 April 2016 to 31 March 2017) will include all of the transaction volumes realised in the reference year (1 January to 31 December 2015) by the businesses it owns in the fee year 2016/17. Conversely, the selling PSP (B) will not be liable in 2016/17 for the PSR regulatory fees relating to the volumes realised in 2015 when it owned the relevant business.
- 5.21 We recognise that individual acquisition and merger agreements could make different contractual provisions in terms of who is liable for the payment of PSR regulatory fees. We do not object to parties commercially negotiating who will pay PSR regulatory fees that may arise, but they must be aware that under the proposed fees rules, we are proposing that the party we will turn to and who will be liable for PSR regulatory fees under FEES 9 is the acquiring PSP.
- 5.22 The proposed new rule is at FEES 9.2.1DR, as follows:
- a. If a *payment service provider* (A) acquires all or part of the business of another *payment service provider* which includes *transaction volumes* (B), whether by merger, acquisition or transfer, during the course of a *fee year*, the liability for paying the *PSR fee* in the following *fee year* in relation to B shall rest with A.
  - b. FEES 9.2.1.DR (1) also applies when the business acquired, transferred or merged is not a legal entity but an unincorporated business, or is in the form of assets and/or contracts.

**Q12: Do you agree with our additional proposed amendments to the fees rules as set out in paragraphs 5.11 to 5.22?**

## **Assessment of compatibility with FCA duties and PSR regulatory principles**

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- 5.23 We set out below our reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA), as amended by FSBRA. The FCA is exempt from the obligation to carry out a cost benefit analysis in relation to PSR fees rules.
- 5.24 When consulting on new rules, the FCA is required by section 138(2)(d) FSMA to explain why it believes making the proposed rules is compatible with the FCA's strategic objectives, advances one or more of its operational objectives and has regard to the regulatory principles in s.38 FSMA.
- 5.25 We set out below our view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way that promotes effective competition in the interests of consumers (s.1B(4)). This duty applies in so far as promoting competition is compatible with advancing our consumer protection and/or integrity objectives. We also include our assessment of the equality and diversity implications of these proposals.
- 5.26 We also set out our view of how the proposed rules are compatible with the regulatory principles applicable to the PSR under s.53 FSBRA.

## **(a) The FCA and PSR's objectives and regulatory principles**

- 5.27 The proposals we set out in this consultation are not intended in themselves to advance the FCA's operational objectives. However, they will contribute to enabling the FCA to ensure the PSR is capable of discharging its functions, by funding the activities the PSR needs to undertake in 2016/17 to meet its responsibilities under FSBRA and IFR. Therefore, these proposals will indirectly advance the FCA's operational objectives of:
- delivering consumer protection – securing an appropriate degree of protection for consumers
  - enhancing market integrity – protecting and enhancing the integrity of the UK financial system
  - building competitive markets – promoting effective competition in the interests of consumers
- 5.28 We also consider that these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well, again because they will contribute to enabling us to fund activities to meet this strategic objective.
- 5.29 The proposals in this consultation aim to set out a methodology for calculating and collecting fees to fund the PSR so it can meet its statutory objectives. These are:
- to promote effective competition in the markets for payment systems and the services provided by payment systems, in the interests of service users
  - to promote development and innovation in payment systems, including in infrastructure used for the purpose of operating payment systems, in the interests of service users
  - to ensure payment systems are operated and developed in a way that takes account of and promotes the interests of service users

Funding also enables the PSR to carry out its functions to monitor and enforce the IFR.

- 5.30 In preparing the proposals set out in this consultation, the FCA must have regard to the regulatory principles set out in s.3B FSMA. The most relevant regulatory principles are considered below. These are also broadly consistent with the PSR's regulatory principles under s.53 FSBRA.

## **(b) The need to use our resources in the most efficient and economical way**

- 5.31 Our proposed approach to calculating and collecting PSR fees reflects an appropriate balance between an approach that is relatively simple, transparent and predictable (and, as a result, low-cost), and one that is not disproportionate or unfair to individual payment systems or participants. This is consistent with the need to use resources in an efficient and economical way. In particular, at a small additional cost to the PSR (in terms of administrative expense), we are able to eliminate the risk of a potentially significant increase in the regulatory burden on industry.
- 5.32 A minimum transaction volume threshold for card systems, where the cost of collecting the fees may exceed the amount collected, reduces the administrative burden for both us and the systems without making any material difference to the allocation of PSR fees between PSPs (because the amounts involved are so small).

**(c) The principle that a burden or restriction should be proportionate to the benefits, considered in general terms, which are expected to result from imposing it**

- 5.33 The calculation methodology for determining the PSR FSBRA fee payable by individual PSPs within a regulated payment system largely mirrors the way in which the operators recover their own operating costs from their direct PSP members, acquirers and card issuers. In particular, the use of transaction volumes reflects a PSP's usage of a payment system, and is therefore both fair and transparent. It also does not create an inappropriate burden for new direct PSP members, whose PSR fee will be proportionate to the volumes of transactions they process or generate.
- 5.34 FSBRA and IFR fees will only apply for transactions with a sufficient UK connection. This avoids imposing a fees burden on a large number of members or licensees of card payment systems for whom this may not be appropriate because they have no activities at all in the UK, and reduces the resulting administrative invoicing burden on card payment systems and us.
- 5.35 This is also supported by our proposal to continue with a minimum transaction volume threshold, ensuring that the administrative burden on operators of invoicing is not greater than the sum being collected. Where no individual acquirer or card issuer operating in the UK is above the minimum threshold, the fee is payable by the operator itself. This ensures that all systems contribute to the funding of the PSR's activities and functions.
- 5.36 In addition, we consider it proportionate that all card payment systems subject to the IFR in the UK contribute to the funding of the PSR's IFR functions and activities. This is commensurate with their size where systems have only limited activities in the UK through our three-tier approach, which exempts systems with a very small UK presence and imposes a flat fee on systems with limited UK presence.

**(d) The desirability of exercising our functions in a way that recognises differences in the nature of the businesses carried on by different persons we regulate**

- 5.37 In respect of fees for our FSBRA functions, we propose to continue with different calculation methodologies for the different regulated payment systems to reflect differences between the way that they operate and the usual methodologies the operators of those systems use to recover their operating costs.
- 5.38 For all card payment systems in relation to both FSBRA and IFR, our proposals to continue with the definition of 'transactions by acquirers and card issuers operating in the UK', and the minimum transaction volume threshold, recognise some specific differences in the nature of card systems, and ensures that only acquirers, card issuers and operators actually operating in the UK at a sufficient scale are captured.

**(e) The principle that we should exercise our functions as transparently as possible**

- 5.39 We believe this consultation clearly explains the way we propose to calculate and collect fees to fund the PSR. Our proposed approach is intended to minimise the regulatory burden and cost on industry participants, while ensuring a simple and transparent method of both calculating PSR fees payable by each individual participant in a payment system and collecting PSR fees (via the operators acting as collection agents for FSBRA and where appropriate for IFR).



## **(f) Compatibility with the duty to promote effective competition in the interests of consumers**

- 5.40 The PSR has an objective to promote effective competition in the markets for payment systems and services provided by payment systems. As a result, by raising fees to fund the PSR, the FCA is acting consistently with its duty to promote effective competition in the interests of consumers.
- 5.41 Our proposed approach demonstrates flexibility in dealing with circumstances unique to different payment systems. We believe this will reduce concerns of other, non-designated payment systems regarding the potential direct financial cost if they were to be designated for FSBRA regulation in future, as well as for potential new direct PSP members of existing regulated payment systems. It will also reduce concerns of other card systems subject to the IFR but not yet operating in a material way in the UK.

## **(g) Equality and diversity**

- 5.42 We are required under the Equality Act 2010 to 'have due regard' to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. As part of this, we conduct an equality impact assessment (EIA) to ensure that the equality and diversity implications of any new policy proposals are considered. Our EIA concluded that none of our current proposals are relevant to the equality and diversity agenda.
- 5.43 However, we would welcome comments on any equality and diversity issues you believe may arise from our proposals.
- 5.44 The funding for the PSR will enable it to progress its programme of work. This may in due course lead to consideration of new general directions or generally applicable requirements (or modifications to existing ones). We note that where the PSR proposes to impose general directions or generally applicable requirements under FSBRA (or modify existing ones), it carries out an EIA with respect to those specific proposals.
- 5.45 Under the IFR, the PSR's role is to monitor and enforce compliance with EU legislation implemented in the UK.

# **Annex 1**

## **Draft fees instrument making amendments to the PSR fees rules**

## FEES (PAYMENT SYSTEMS REGULATOR) INSTRUMENT 2016

### Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the powers in paragraph 9 (Funding) of Schedule 4 (The Payment Systems Regulator) of the Financial Services (Banking Reform) Act 2013 (“FSBRA”);
  - (2) the powers in Regulation 15 of The Payment Card Interchange Fee Regulations 2015 (SI 2015/1911) ; and
  - (3) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 137T (General supplementary powers);
    - (b) section 139A (Power of the FCA to give guidance); and
    - (c) paragraph 23 of schedule 1ZA (Fees).
- B. The rule-making powers listed above are specified for the purpose of paragraph 9 of schedule 4 to FSBRA and section 138G (Rule-making instruments) of the Act.

### Commencement

- C. This instrument comes into force on 1 April 2016.

### Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

### Notes

- F. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

### Citation

- G. This instrument may be cited as the Fees (Payment Systems Regulator) Instrument 2016.

By order of the Board  
[25 March 2016]

## Annex A

### Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>2015 interchange regulations</i>	(in <i>FEES</i> 9) The Payment Card Interchange Fee Regulations 2015 (SI 2015/1911).
<i>AmEx</i>	the American Express <i>IFR card payment system</i> .
<i>Diners Club</i>	the Diners Club International <i>IFR card payment system</i> .
<i>IFR</i>	Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions.
<i>IFR card payment system</i>	a payment card scheme as defined in the <i>IFR</i> , being a single set of rules, practices, standards and/or implementation guidelines for the execution of card-based payment transactions and which is separated from any infrastructure or payment system that supports its operation, and includes any specific decision-making body, organisation or entity accountable for the functioning of the scheme.
<i>IFR transactions by acquirers operating in the United Kingdom</i>	<p>all transactions subject to the <i>IFR</i> acquired by:</p> <ul style="list-style-type: none"> <li>(a) <i>UK-based acquirers</i> (or an <i>operator</i> acting as such an <i>acquirer</i>) resulting in payments to merchants located in the <i>United Kingdom</i>, where the <i>card issuer</i> is located in the <i>EEA</i>;</li> <li>(b) <i>UK-based acquirers</i> (or an <i>operator</i> acting as such an <i>acquirer</i>) resulting in payments to merchants located outside the <i>United Kingdom</i>, where the <i>card issuer</i> is located in the <i>EEA</i>; and</li> <li>(c) <i>non-UK-based acquirers</i> (or an <i>operator</i> acting as such an <i>acquirer</i>) resulting in payments to merchants located in the <i>United Kingdom</i>, where the <i>card issuer</i> is located in the <i>EEA</i>.</li> </ul>
<i>IFR transactions by card issuers operating in the United Kingdom</i>	all transactions subject to the <i>IFR</i> on cards issued by <i>UK-based card issuers</i> (or an <i>operator</i> acting as such an <i>card issuer</i> ), where the <i>acquirer</i> is located in the <i>EEA</i> .
<i>JCB</i>	the JCB International <i>IFR card payment system</i> .

*regulated person* (in *FEES 9*) a *person* on whom the *IFR* imposes an obligation, restriction or prohibition, including *participants* in *IFR card payment systems*.

*UPI* the Union Pay International *IFR card payment system*.

Amend the following definitions as shown.

*direct access* (a) access to a *regulated payment system* to enable a *payment service provider* to provide services for the purposes of enabling the transfer of funds using the *regulated payment system*, as a result of arrangements made between that *payment service provider* and the *operator* (and other *participants*, as applicable).

(b) access to an *IFR card payment system* to enable a *payment service provider* to provide services for the purposes of enabling the transfer of funds under the rules of that *IFR card payment system*.

~~[Note: section 42(6) of *FSBRA*]~~

*direct payment service provider* (a) any *person* with *direct access* to a *regulated payment system* who provides services to consumers or businesses who are not *participants* in a *regulated payment system*, for the purposes of enabling the transfer of funds using that *regulated payment system*. For the purposes of *FEES 9*, *direct payment service provider* includes an *acquirer* and a *card issuer* in a *card payment system*, and does not include the Bank of England.

(b) any *person* with *direct access* to an *IFR card payment system* who acts as an *acquirer* or *card issuer* for the purposes of enabling the transfer of funds under the rules of that *IFR card payment system*.

*MasterCard* the MasterCard regulated payment system designated by HM Treasury under section 43 of *FSBRA*, and the MasterCard *IFR card payment system*.

*operator* ...

(3) (in *FEES 1* and *FEES 9*), any *person* with responsibility under a *payment system* for managing or operating it; and any reference to the operation of a *payment system* includes a reference to its management. ~~[Note: section 42(3) of *FSBRA*]~~

*participant* ...

(c) (in *FEES 9*) in relation to an *IFR card payment system*, any *operator* or *payment system provider* in that *IFR card payment system*.

<i>payment service provider</i>	...  (4) <u>(in FEES 9) any person with access to an IFR card payment system who acts as an acquirer or card issuer for the purposes of enabling the transfer of funds under the rules of that IFR card payment system.</u>
<i>payment system</i>	<del>(in accordance with section 41 of FSBRA),</del> a system which is operated by one or more <i>persons</i> in the course of business for the purpose of enabling <i>persons</i> to make transfers of funds, and includes a system which is designed to facilitate the transfer of funds using another payment system.  [ <del>Note: section 42(2) of FSBRA</del> ]
<i>processing entity</i>	any <i>person</i> providing payment transaction processing services, in terms of the actions required for the handling of a payment instruction between the <i>acquirer</i> and the <i>card issuer</i> in a <i>card payment system</i> <u>or in an IFR card payment system.</u>
<i>PSR fee</i>	the fee payable by a <i>direct payment service provider</i> <u>or an operator of an IFR card payment system</u> under FEES 9.2.1R.
<i>payment system allocation</i>	(a) for each <i>regulated payment system</i> listed in column 1 of Table A of FEES 9 Annex 1R, the annual allocation of <i>PSR fees</i> specified for that <i>regulated payment system</i> in column 2 of Table A of FEES 9 Annex 1R.  (b) <u>for each IFR card payment system listed in column 1 of Table C of FEES 9 Annex 1R, the annual allocation of PSR fees specified for that IFR card payment system in column 2 of Table C of FEES 9 Annex 1R.</u>
<i>payment system denominator</i>	(a) for each <i>regulated payment system</i> listed in column 1 of Table A of FEES 9 Annex 1R, the figure specified for that <i>regulated payment system</i> in column 6 of Table A and which is also the total <i>transaction volumes</i> for that <i>regulated payment system</i> undertaken by all relevant <i>direct payment service providers</i> in the <i>relevant time period</i> , prior to any adjustment resulting from the application of FEES 9.2.1AR.  (b) <u>for each IFR card payment system listed in column 1 of Table C of FEES 9 Annex 1R, the figure specified for that IFR card payment system in column 4 of Table B and column 6 of Table C of FEES 9 Annex 1R, and which is also the total transaction volumes for that IFR card payment system undertaken by all relevant acquirers, card issuers and operators acting as such acquirers or card issuers in the relevant time period, prior to any adjustment resulting from the application of FEES 9.2.1BR.</u>
<i>relevant time period</i>	(a) for each <i>regulated payment system</i> listed in column 1 of Table A of FEES 9 Annex 1R, the time period or date specified for that

	<i>regulated payment system</i> in column 4 of Table A.
	(b) <u>for each <i>IFR card payment system</i> listed in column 1 of Table C of <i>FEES 9 Annex 1R</i>, the time period specified for that <i>IFR card payment system</i> in column 2 of Table B and column 4 of Table C of <i>FEES 9 Annex 1R</i>.</u>
<i>transaction volumes</i>	(a) for each <i>regulated payment system</i> listed in column 1 of Table A of <i>FEES 9 Annex 1R</i> , the number of transfers of funds of the type specified in column 5 of Table A undertaken by a <i>direct payment service provider</i> in the <i>relevant time period</i> .
	(b) <u>for each <i>IFR card payment system</i> listed in column 1 of Table C of <i>FEES 9 Annex 1R</i>, the number of transfers of funds of the type specified in column 1 of Table B and column 5 of Table C of <i>FEES 9 Annex 1 R</i> undertaken in the <i>relevant time period</i> by:</u>
	(i) <u>an <i>acquirer</i></u> ;
	(ii) <u>a <i>card issuer</i></u> ; or
	(iii) <u>an <i>operator of an IFR card payment system</i> acting as such an <i>acquirer</i> or <i>card issuer</i>.</u>
<i>transactions by acquirers operating in the United Kingdom</i>	all transactions acquired by:
	(a) <i>UK-based acquirers (or an operator acting as such an acquirer)</i> resulting in payments to merchants located in the <i>United Kingdom</i> ;
	(b) <i>UK-based acquirers (or an operator acting as such an acquirer)</i> resulting in payments to merchants located outside the <i>United Kingdom</i> ; and
	(c) <i>non-UK-based acquirers (or an operator acting as such an acquirer)</i> resulting in payments to merchants located in the <i>United Kingdom</i> .
<i>transactions by card issuers operating in the United Kingdom</i>	all transactions on cards issued by <i>UK-based card issuers</i> , <del>irrespective of where the cardholder is located or the payment is initiated</del> <u>(or an operator acting as such a <i>card issuer</i>)</u> .
<i>Visa</i>	the <i>Visa Europe regulated payment system</i> designated by HM Treasury under section 43 of <i>FSBRA</i> , and the <i>Visa Europe IFR card payment system</i> .
<i>working day</i>	...

- (3) (in FEES 9) any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.



## Annex B

### Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

#### 1 Fees Manual

##### 1.1 Application and Purpose

...

Application

...

1.1.2A R *FEES* 1 and *FEES* 9 apply to:

- (1) operators of regulated payment systems;
- (2) operators of IFR card payments systems; and
- (3) direct payment service providers.

...

#### 9 Payment Systems Regulator funding

##### 9.1 Application and purpose

Application

9.1.1 R This chapter applies to:

- (1) operators of regulated payment systems;
- (2) operators of IFR card payment systems; and
- (3) direct payment service providers.

Purpose

9.1.2 G This chapter sets out the fee payable by a *direct payment service provider* or an operator of an IFR card payment system to establish and fund the *PSR*.

...

9.1.4 G (1) Paragraph 9 of Schedule 4 of *FSBRA* ~~allows~~ and the 2015 interchange regulations applying *FSBRA* in a modified form allow the *FCA* to make *rules* requiring *participants* in *regulated*

*payment systems and regulated persons to pay the FCA specified amounts or amounts calculated in a specified way to:*

(1A) The specified amount or amounts calculated in a specific way in (1) are PSR fees which are levied for the funding of the PSR's functions and activities in relation to:

(a) regulated payment systems on participants in regulated payment systems; and

(b) the IFR on regulated persons.

...

## 9.2 PSR fees

Obligation to pay PSR fees

9.2.1 R A direct payment service provider, acquirer, ~~or~~ card issuer or operator of an IFR card payment system must pay the PSR fees applicable to it and calculated as set out in FEES 9 Annex 1R:

(1) in full and without deduction; and

(2) in accordance with this chapter, subject to FEES 9.2.1AR, FEES 9.2.1BR and FEES 9.2.1CR.

9.2.1.A R If either of the following tests is met by an acquirer or card issuer in a card payment system in any given fee year, the transaction volumes attributable to that acquirer or card issuer are not to be included in the payment system denominator for that card payment system for that fee year, and that acquirer or card issuer is not required to pay any PSR fee in respect of the PSR's functions and activities in relation to regulated payment systems for that fee year where:

(1) the PSR fee for that acquirer or card issuer calculated as set out in FEES 9 Annex 1R would be less than £50 for the current fee year if FEES 9.2.1AR were not applied; or

(2) ~~for an acquirer, a payment service provider realises in total less than 100,000 transactions by an acquirer operating in the United Kingdom and transactions by a card issuer operating in the United Kingdom were realised in the relevant time period;~~ ~~or~~

(3) ~~for a card issuer, less than 100,000 transactions by a card issuer operating in the United Kingdom were realised in the relevant time period.~~

9.2.1.B R (1) If either of the following tests is met by an acquirer or card issuer in an IFR card payment system in any given fee year, the transaction volumes attributable to that acquirer or card issuer are not to be included in the payment system denominator for that IFR card payment system for that fee year, and that acquirer or card

issuer is not required to pay any PSR fee in relation to the PSR's functions and activities in relation to the IFR for that fee year :

- (a) the PSR fee for that acquirer or card issuer calculated as set out in FEES 9 Annex 1R would be less than £50 for the current fee year if FEES 9.2.1BR were not applied; or
  - (b) a payment service provider realises in total less than 100,000 IFR transactions by an acquirer operating in the United Kingdom and IFR transactions by a card issuer operating in the United Kingdom in the relevant time period.
- (2) If the total IFR transactions by an acquirer operating in the United Kingdom and card issuer operating in the United Kingdom under a given IFR card payment system in the relevant time period amount to less than 100,000, no payment system allocation to that IFR card payment system shall be made for the relevant fee year, and the acquirers, card issuers and operator in that IFR card payment system are not required to pay any PSR fee in relation to the PSR's functions and activities in relation to the IFR for that fee year.

9.2.1.C R If there is a payment system allocation for a given fee year to an IFR card payment system (as set out in Table C of FEES 9 Annex 1R), and none of the acquirers and card issuers in that IFR card system are required to pay any PSR fee for that fee year as a result of the application of FEES 9.2.1BR, then the operator of that IFR card payment system must pay the entire payment system allocation as PSR fees in relation to the PSR's functions and activities in relation to the IFR for that fee year.

9.2.1.D R (1) If a payment service provider (A) acquires all or part of the business of another payment service provider which includes transaction volumes (B), whether by merger, acquisition or transfer, during the course of a fee year, the liability for paying the PSR fee in the following fee year in relation to B shall rest with A.

(2) FEES 9.2.1.DR (1) also applies when the business acquired, transferred or merged is not a legal entity but is an unincorporated business, or is in the form of assets and/or contracts.

Time of payment

9.2.2 R If the PSR fee paid by a direct payment service provider for the previous fee year for a particular regulated payment system or IFR card payment system was at least £20,000, that direct payment service provider must pay to the operator of that particular regulated payment system or IFR card payment system:

- (1) an amount equal to 50% of the PSR fee payable for the previous fee year, by 15 April ~~March~~ at the end of the current previous fee year; and

- (2) the balance of the *PSR fee* due by 15 August in the current *fee year*.

9.2.2A R The operator of each *regulated payment system* or *IFR card payment system* must pay the amounts collected (as collection agent for the *FCA*) under *FEES* 9.2.2R to the *FCA* by the following dates:

- (1) ~~30~~ 1 April in the current *fee year*;
- (2) 1 September in the current *fee year*.

9.2.2B R If an operator of an *IFR card payment system* is liable to pay *PSR fees* itself, and the *PSR fee* it paid for the previous *fee year* for its *IFR card payment system* was at least £20,000, that operator of an *IFR card system* must pay to the *FCA*:

- (1) an amount equal to 50% of the *PSR fee* payable for the previous *fee year*, by 15 March at the end of the previous *fee year*; and
- (2) the balance of the *PSR fee* due by 15 August in the current *fee year*.

[Note: Transitional provisions apply to *FEES* 9.2.2R to *FEES* 9.2.2BR inclusive: see *FEES* TP 12.]

9.2.3 R If the *PSR fee* paid by a *direct payment service provider* for a particular *regulated payment system* or *IFR card payment system* for the previous *fee year* was less than £20,000, the *direct payment service provider* must pay its *PSR fee* in full to the operator of that *regulated payment system* or *IFR card payment system*:

- (1) by 15 August in the current *fee year*; or
- (2) if later, within 30 *days* of the date of the invoice.

9.2.3A R The operator of each *regulated payment system* and *IFR card payment system* must pay the amounts collected (as collection agent for the *FCA*) under *FEES* 9.2.3R to the *FCA* by the following date:

- (1) 30 August in the current *fee year*; or
- (2) if later, within 15 *days* of the date payment of an amount in respect of *PSR fees* is received by the operator from a *direct payment service provider*.

9.2.3B R If an operator of an *IFR card payment system* is liable to pay *PSR fees* itself, and the *PSR fee* it paid for the previous *fee year* for its *IFR card payment system* was less than £20,000, that operator of an *IFR card system* must pay its *PSR fee* in full to the *FCA*:

- (1) by 15 August in the current *fee year*; or

(2) if later, within 30 days of the date of the invoice.

...

9.2.4A R A *direct payment service provider* must pay its *PSR fees* to the operator (acting as collection agent for the *FCA*) of the *regulated payment system* or *IFR card payment system* to which the fee relates.

9.2.4B R The operator of a *regulated payment system* or an *IFR card payment system*, acting as collection agent for the *FCA*, must pay to the *FCA* the amounts it receives from or on behalf of *direct payment service providers* under *FEES 9.2.4AR*.

9.2.4C R With respect to invoices for PSR fees:

(1) the operator of each *regulated payment system* or *IFR card payment system* must issue invoices to its *direct payment service providers* for the amount of the *PSR fee* relating to each *direct payment service provider* for their participation in that *regulated payment system* or *IFR card payment system*;

...

9.2.4D R (1) The operator of a *regulated payment system* or *IFR card payment system* must provide to the *PSR*, for each of its *direct payment service providers*, a copy of:

(a) its calculations (as specified in column 3 of ~~Table~~ Tables A and C of *FEES 9 Annex 1R*); and

(b) the underlying data (as specified in column 5 of ~~Table~~ Tables A and C of *FEES 9 Annex 1R*).

(2) The operator of a *regulated payment system* or *IFR card payment system* must:

(a) provide the information in (1) ~~no later than the date it issues~~ to the PSR as soon as possible once *FEES 9 Annex 1R* is updated for a fee year, and

(b) obtain the PSR's agreement to the individual PSR fees on a sufficiently timely basis to be able to issue invoices to direct payment service providers in accordance with *FEES 9.2.4CR*.

(3) The operator of each regulated payment system and IFR card payment system must provide to the PSR an updated version of the information set out in *FEES 9.2.4DR(1)* by no later than two working days after the dates set out in *FEES 9.2.2R* and *FEES 9.2.3R*, indicating which direct payment service providers have not paid, or not paid in full, their PSR fees.

- 9.2.4E G *An operator of a regulated payment system or an IFR card payment system* should pay the amounts due to the *FCA* under *FEES 9.2.2BR*, *FEES 9.2.3BR* and *FEES 9.2.4BR* by electronic credit transfer and should notify the *FCA* if it intends to pay in another way.

Ceasing to be designated as a regulated payment system, ~~and~~ ceasing to be a direct payment system provider of a regulated payment system or IFR card payment system, and ceasing to be subject to the IFR

- 9.2.5 G The *FCA* will not relieve or refund a *PSR fee* if after the start of that fee year:
- (1) a *payment system* ceases to be a *regulated payment system*; ~~;~~ or
  - (2) an IFR card payment system ceases to be subject to the IFR; or
  - (3) ~~if~~ a *person* ceases to be a *direct payment service provider* of a *regulated payment system* or an *IFR card payment system*, ~~after the start of that fee year~~.
- 9.2.6 R If a *payment system* ceases to be a *regulated payment system*, or an IFR card payment system ceases to be subject to the IFR, all *direct payment service providers* of that system, and the *operator* of that *IFR card payment system*, must pay any outstanding *PSR fees* before the system ceases to hold that status.
- 9.2.6A R If a *person* ceases to be:
- (1) a *direct payment service provider* of a *regulated payment system* or of an IFR card payment system, it must pay any outstanding *PSR fees* in respect of that system, before it ceases to be a *direct payment system provider* of the system; or
  - (2) the operator of a IFR card payment system it must pay any outstanding PSR fees in respect of that system before it ceases to be the operator of that IFR card payment system.

#### Late payments

- 9.2.7 R If a *direct payment service provider* or an operator of an IFR card payment system does not pay the total amount of its *PSR fees* before the end of the date on which it is due, it must pay to the *FCA*:
- (1) an administrative fee of £250; plus
  - (2) interest on any unpaid part of the fee at an annual rate of 5% above the Official Bank Rate from time to time in force, accruing daily from the date on which the amount concerned became due.
- ...
- 9.2.10 G The *FCA* will not consider a claim to refund a *PSR fee* due to a mistake

of fact or law by the fee paying *direct payment service provider* or  
operator of an IFR card payment system if the claim is made more than  
two years after the beginning of the *fee year* to which the fee relates.

...

the following new table. The text is not underlined.

### 9 Annex 1R PSR fees for the period 1 April 2016 to 31 March 2017

Table A below shows the *PSR fee* applicable to the *direct payment system providers, acquirers and card issuers* of each *regulated payment system*.

**Table A**

Regulated payment system (column 1)	Payment system allocation for 2016/17 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
<i>Bacs</i>	[£1.93 million]	The <i>PSR fee</i> is calculated for each individual <i>direct payment service provider</i> proportionally to the relevant <i>transaction volumes</i> processed, issued or acquired on behalf of that <i>direct payment service provider</i> through the <i>regulated payment system</i> in question during the <i>relevant time period</i> .  The calculation formula is: <i>payment system allocation</i> multiplied by <i>direct payment service provider's relevant transaction volumes</i>	1 January to 31 December 2015	All transactions processed through the <i>Bacs regulated payment system</i> . Transactions include both the initiation of the transfer of funds, and the receiving of transferred funds.	[tbc]
<i>C&amp;C</i>	[£1.87 million]		1 July to 31 December 2015	All transactions including 'in clearing' and 'out clearing' transactions for GBP, USD and EUR processed through the <i>C&amp;C regulated payment system</i> .	[tbc]
<i>CHAPS</i>	[£1.93 million]		1 January to 31 December 2015	All MT103 and MT202 transactions processed through the <i>CHAPS regulated payment system</i> . Transactions include both the initiation of the transfer of funds, and the receiving of transferred funds.	[tbc]
<i>FPS</i>	[£1.93 million]		1 January to 31	All transactions processed through the <i>FPS regulated payment system</i> . Transactions include both the	[tbc]



Regulated payment system (column 1)	Payment system allocation for 2016/17 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
		divided by <i>payment system denominator</i> .	December 2015	initiation of the transfer of funds, and the receiving of transferred funds.	
<i>LINK</i>	[£1.93 million]		1 January to 31 December 2015	All transactions issued and acquired under the <i>LINK regulated payment system</i> , including GBP cash withdrawals, foreign currency dispenses, balance enquiries, PIN management, charity donations, non-cash transactions and mobile payment transactions, but excluding ' <i>on us</i> ' transactions. Both issuing and acquiring transactions are taken into account.	[tbc]
<i>MasterCard</i>	[£1.93 million]	The <i>PSR fee</i> is calculated for each individual <i>acquirer</i> and <i>card issuer</i> (or the <i>operator</i> of that <i>regulated card payment system</i> acting as such an <i>acquirer</i> or <i>card issuer</i> ) proportionally to the relevant <i>transaction volumes</i> under the <i>regulated card payment system</i> in question during the <i>relevant time period</i> .	1 January to 31 December 2015	All <i>transactions by acquirers operating in the United Kingdom and card issuers operating in the United Kingdom</i> under the <i>MasterCard regulated payment system</i> , including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals. All <i>MasterCard-branded transactions</i> are included irrespective of the <i>processing entity (MasterCard itself, a third party processing entity or 'on us' transactions)</i> . Both issuing and acquiring transactions are taken into account.	[tbc]  (prior to any adjustment resulting from the application of <i>FEES 9.2.1AR</i> )
<i>Visa</i>	[£1.93 million]	The calculation formula is: <i>payment system allocation</i> multiplied by <i>acquirer or card issuer's</i> (or those of the <i>operator</i> of that <i>regulated</i>	1 January to 31 December 2015	All <i>transactions by acquirers operating in the United Kingdom and card issuers operating in the United Kingdom</i> under the <i>Visa regulated payment system</i> , including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but	[tbc]  (prior to any adjustment resulting from the application of

Regulated payment system (column 1)	Payment system allocation for 2016/17 (£) (column 2)	Calculation methodology for PSR fee payable by direct payment service providers, acquirers and card issuers of regulated payment systems (column 3)	Relevant time period (column 4)	Relevant transaction volumes or shareholdings, as applicable (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
		<i>card payment system</i> acting as such an <i>acquirer</i> or <i>card issuer</i> relevant <i>transaction volumes</i> divided by <i>payment system denominator</i> .		excluding cash-only withdrawals. All <i>Visa</i> -branded transactions are included irrespective of the <i>processing entity</i> ( <i>Visa</i> itself, a third party <i>processing entity</i> or ' <i>on us</i> ' transactions). Both issuing and acquiring transactions are taken into account.	FEES 9.2.1AR
NICC	[£60,000]	<p>The <i>PSR fee</i> is calculated for each <i>direct payment service provider</i> proportionally to its <i>shareholding</i> in the <i>operator</i> of the <i>NICC regulated payment system</i> during the <i>relevant time period</i>.</p> <p>The calculation formula is: <i>payment system allocation</i> multiplied by <i>direct payment service provider's</i> shareholding in the capital of the Belfast Bankers' Clearing Company Ltd (expressed as a percentage).</p>	31 December 2015	All shareholdings held in Belfast Bankers' Clearing Company Ltd, the <i>operator</i> of the <i>NICC regulated payment system</i> .	Not applicable

Insert the following new Table B in 9 Annex 1R. The text is not underlined.

Table B below shows the tiers and their levels for determining how the *payment system allocation* is allocated to individual *IFR card payment systems*.

**Table B**

<b>Relevant IFR transaction volumes</b> (column 1)	<b>Relevant time period</b> (column 2)	<b>Tier</b> (column 3)	<b>Payment system denominator</b> (rounded to the nearest ‘000) (column 4)	<b>Allocation methodology for the payment system allocation for 2016/17 for each IFR card payment system</b> (column 5)
<p>All transactions by acquirers operating in the United Kingdom and card issuers operating in the United Kingdom (or those by the operator of that IFR card payment system acting as such an acquirer or card issuer) under that IFR card payment system, including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals.</p> <p>All transactions under the brand of that IFR card payment system are included irrespective of the processing entity (the operator or IFR card payment system itself, a third party processing entity or ‘on us’ transactions).</p> <p>Both issuing and acquiring transactions are taken into account for each IFR card payment system.</p>	1 January to 31 December 2015	1	Total relevant IFR <i>transaction volumes</i> for the IFR card payment system in question of <100,000 in the relevant time period (application of FEES 9.2.1CR)	Exemption from <i>PSR fees</i>
		2	Total relevant IFR <i>transaction volumes</i> for the IFR card payment system in question of between 100,000 and 10,000,000 in the <i>relevant time period</i> (prior to any adjustment resulting from the application of FEES 9.2.1BR)	<i>Payment system allocation</i> to each relevant IFR card payment system amounting to 0.5% of the total 2016/17 funding requirement in relation to the PSR’s IFR functions and activities
		3	Total IFR <i>transaction volumes</i> for the IFR card payment system in question of greater than 10,000,000 in the <i>relevant time period</i> (prior to any adjustment resulting from the application of FEES 9.2.1BR)	Equal <i>payment system allocation</i> to each relevant IFR card payment system for the remaining total 2016/17 funding requirement in relation to the PSR’s IFR functions and activities

Insert the following new Table C in 9 Annex 1R. The text is not underlined.

Table C below shows the *PSR fee* applicable to the *acquirers, card issuers and operators* of each *IFR card payment system*.

**Table C**

IFR card payment system (column 1)	Payment system allocation for 2016/17 (£) (column 2)	Calculation methodology for PSR fee payable by acquirers, card issuers and operators of IFR card payment systems (column 3)	Relevant time period (column 4)	Relevant IFR transaction volumes (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
<i>JCB International</i>	[Nil]	The <i>PSR fee</i> is calculated for each individual <i>acquirer</i> and <i>card issuer</i> (or <i>operator</i> of an <i>IFR card payment system</i> acting as such an <i>acquirer</i> or <i>card issuer</i> ) proportionally to the relevant <i>transaction volumes</i> under the <i>IFR card payment system</i> in question during the <i>relevant time period</i> .  The calculation formula is: <i>payment system allocation</i> multiplied by <i>acquirer</i> or <i>card issuer's</i> (or those by the <i>operator</i> of an <i>IFR card payment system</i> acting as such an <i>acquirer</i> or <i>card issuer</i> )	1 January to 31 December 2015	All <i>transactions by acquirers operating in the United Kingdom and card issuers operating in the United Kingdom</i> (or by the <i>operator</i> of that <i>IFR card payment system</i> acting as such an <i>acquirer</i> or <i>card issuer</i> ) under that <i>IFR card payment system</i> , including point of sale transactions, merchant sales volumes, and cash purchase transactions on cards, but excluding cash-only withdrawals.  All transactions under the brand of that <i>IFR card payment system</i> are included irrespective of the <i>processing entity</i> (the <i>operator</i> or the <i>IFR card payment system</i> )	[Not applicable as a result of the application of <i>FEES</i> 9.2.1CR]
<i>Union Pay International</i>	[Nil]				[Not applicable as a result of the application of <i>FEES</i> 9.2.1CR]
<i>Diners Club International</i>	[£7,500]				[tbc]  (prior to any adjustment resulting from the application of <i>FEES</i> 9.2.1BR)
<i>American Express</i>	[£497,500]				[tbc]  (prior to any adjustment resulting from the application of <i>FEES</i> 9.2.1BR)
<i>MasterCard</i>	[£497,500]				[tbc]  (prior to any adjustment resulting from the application of <i>FEES</i> 9.2.1BR)

IFR card payment system (column 1)	Payment system allocation for 2016/17 (£) (column 2)	Calculation methodology for PSR fee payable by acquirers, card issuers and operators of IFR card payment systems (column 3)	Relevant time period (column 4)	Relevant IFR transaction volumes (column 5)	Payment system denominator (column 6) (rounded to the nearest '000)
Visa	[£497,500]	relevant <i>transaction volumes</i> divided by <i>payment system denominator</i> .		itself, a third party <i>processing entity</i> or ' <i>on us</i> ' transactions). Both issuing and acquiring transactions are taken into account for each <i>IFR card payment system</i> .	[tbc]  (prior to any adjustment resulting from the application of <i>FEES</i> 9.2.1BR)

Amend the following as shown.

**TP 12 Transitional provisions relating to direct payment service providers and operators of IFR card payment systems**

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
<u>12.4</u>	<u>FEES 9.2.2R,</u>	<u>R</u>	Replace <i>FEES</i> 9.2.2R, <i>FEES</i> 9.2.2AR and	<u>From 1 April</u>	<u>1 March 2017</u>

	<p><u>FEES 9.2.2AR and FEES 9.2.2BR</u></p>	<p><u>FEES 9.2.2BR with the following:</u></p> <p><u>“If the PSR fee paid by a direct payment service provider for the previous fee year for a particular regulated payment system was at least £20,000, that direct payment service provider must pay:</u></p> <p>(1) <u>an amount equal to 50% of the PSR fee payable for the previous fee year, by 15 April in the current fee year; and</u></p> <p>(2) <u>the balance of the PSR fee due by 15 August in the current fee year.</u></p> <p><u>The operator of each regulated payment system must pay the amounts collected (as collection agent for the FCA) under FEES 9.2.2R to the FCA by the following dates:</u></p> <p>(a) <u>30 April in the current fee year; and</u></p> <p>(b) <u>1 September in the current fee year.”</u></p>	<p><u>2016 until 29 February 2017</u></p>	
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## Annex 2

# Consultation Questions

We are asking for responses to the following consultation questions:

- Q1: Do you agree with our proposal to use the same AFR allocation methodology across regulated payment systems in relation to FSBRA functions and activities in 2016/17 as we did in 2015/16?**
- Q2: Do you agree with our proposal to continue to use the indirect billing method for collecting PSR fees in relation to FSBRA functions and activities in 2016/17?**
- Q3: Do you agree with our proposal to use the same fee calculation methodology relating to FSBRA functions and activities for the year 2016/17 as we did for the year 2015/16?**
- Q4:**
- a. Do you agree with our proposal to apply the same criteria as we did in the year 2015/16 to determine which acquiring and card-issuing PSPs must pay PSR FSBRA fees?
  - b. Do you agree with our proposal to apply a minimum transaction volume threshold for card issuers and acquirers in regulated card payment systems in 2016/17?
  - c. Do you agree with our proposal to apply the minimum threshold for regulated card payment systems only, as we did in 2015/16?
- Q5: Do you agree with our three-tier approach to allocating our IFR AFR, as follows:**
- a. Equal allocation of our IFR fees across those IFR card payment systems with more than 10 million relevant UK transactions?
  - b. A flat fee contribution of 0.5% of the total IFR AFR for IFR card payment systems with between 100,000 and 10 million relevant UK transactions (which amounts to £7,500 in 2016/17)?
  - c. IFR card payment systems with less than 100,000 relevant transactions should be exempted from PSR fees in 2016/17?
- Q6: Do you agree with our proposal to use the indirect billing method for collecting IFR fees, except where we propose to invoice operators directly?**
- Q7: Do you agree with our proposal to use the same fee calculation methodology relating to the funding of IFR functions and activities in 2016/17 as we propose to use for PSR FSBRA fees, adapted to capture also operators acting as acquiring and/or card-issuing PSPs?**

- Q8: Do you agree with our proposal to apply the same minimum threshold for IFR card payment systems (relating to which PSPs are liable to pay PSR fees) for the funding of IFR functions and activities in 2016/17 as we propose to continue to apply for PSR FSBRA fees?**
- Q9: Do you agree with our proposed approach that where all of the acquiring and card-issuing PSPs in an IFR card payment system are below the minimum threshold, any PSR fee which is due will be paid by the operator?**
- Q10: Do you agree with our proposed amendments to the existing fees rules and new fees rules set out above to give effect to our proposals set out in Chapter 4 in relation to the funding of our IFR functions and activities?**
- Q11: Do you agree with our proposed amendments to the existing fees rules set out above to give effect to our proposals set out in Chapter 3 in relation to the funding of our FSBRA functions and activities?**
- Q12: Do you agree with our additional proposed amendments to the fees rules as set out in paragraphs 5.11 to 5.22?**



## Annex 3

# Glossary

This table includes the glossary and abbreviations used for the purposes of this consultation paper on 2016/17 PSR regulatory fees.

Expressions which are defined in the fees rules are italicised in the table (for example, '*direct payment service provider*').

Term or abbreviation	Description
<b>2015 Regulations</b>	<i>The Payment Card Interchange Fees Regulations 2015 (SI 2015/1911)</i>
<b>acquirer (acquiring PSP)</b>	<i>A payment service provider contracting with a payee to enable them to accept payment transactions made by means of any card, telecommunication, digital or IT device or software, and which result in a transfer of funds to the payee</i>
<b>AFR</b>	Annual funding requirement
<b>allocation</b>	The methodology whereby the PSR AFR to be recovered is allocated across regulated payment systems and IFR card payment systems
<b>AmEx</b>	<i>The American Express IFR card payment system</i>
<b>Bacs</b>	<i>The Bacs regulated payment system designated by HM Treasury under section 43 of FSBRA</i>  (The regulated payment system which processes payments through two principal electronic payment schemes: Direct Debit and Bacs Direct Credit. The payment system is operated by Bacs Payment Schemes Limited (BPSL).)
<b>C&amp;C (Cheque &amp; Credit)</b>	<i>The Cheque &amp; Credit regulated payment system designated by HM Treasury under section 43 of FSBRA</i>  (The regulated payment system in England, Scotland and Wales that processes cheques and other paper instruments. It is operated by Cheque and Credit Clearing Company Limited (C&CCCL).)
<b>CA98</b>	Competition Act 1998
<b>calculation (fee calculation)</b>	The methodology whereby the PSR AFR allocated to a specific regulated payment system or IFR card payment system is calculated for an individual fee-paying PSP (or card operator acting as such an acquirer or card issuer) (part of the 'indirect billing' approach)

<b>Term or abbreviation</b>	<b>Description</b>
<b>card issuer (card-issuing PSP)</b>	<i>A payment service provider contracting with a payer to enable the latter to initiate a payment transaction, made by means of any card, telecommunication, digital or IT device or software</i>
<b>card payment system</b>	<i>A regulated payment system that enables a holder of a payment card to effect a payment</i>
<b>CHAPS (Clearing House Automated Payment System)</b>	<i>The CHAPS regulated payment system designated by HM Treasury under section 43 of FSBRA (The UK's real-time, high-value sterling regulated payment system, where payments are settled over the Bank of England's Real Time Gross Settlement (RTGS) system. It is operated by CHAPS Co.)</i>
<b>collection (fee collection)</b>	<i>The methodology whereby the operators act as collection agents for the PSR fee (part of the 'indirect billing' approach)</i>
<b>CP15/26</b>	<i>'PSR regulatory fees 2015/16' – a document published in August 2015 at <a href="https://www.psr.org.uk/about-psr/how-psr-funded">https://www.psr.org.uk/about-psr/how-psr-funded</a> and <a href="http://fca.org.uk">http://fca.org.uk</a>.</i>
<b>Diners Club</b>	<i>The Diners Club International IFR card payment system</i>
<b>direct access</b>	<i>(a) Access to a regulated payment system to enable a payment service provider to provide services for the purposes of enabling the transfer of funds using the regulated payment system, as a result of arrangements made between that payment service provider and the operator (and other participants, as applicable) (b) Access to an IFR card payment system to enable a payment service provider to provide services for the purposes of enabling the transfer of funds under the rules of that IFR card payment system</i>
<b>direct payment service provider (also referred to as a 'direct member' of a regulated payment system)</b>	<i>(a) Any person with direct access to a regulated payment system who provides services to consumers or businesses who are not participants in a regulated payment system, for the purposes of enabling the transfer of funds using that regulated payment system. For the purposes of FEES 9, direct payment service provider includes an acquirer and a card issuer, and does not include the Bank of England. (b) Any person with direct access to an IFR card payment system who acts as an acquirer or card issuer for the purposes of enabling the transfer of funds under the rules of that IFR card payment system.</i>
<b>FCA</b>	<i>Financial Conduct Authority</i>
<b>FEES 9</b>	<i>PSR fees rules included in the FCA Fees Manual (FEES) at FEES 9 (<a href="http://fshandbook.info/FS/html/FCA/FEES/9">http://fshandbook.info/FS/html/FCA/FEES/9</a>)</i>

<b>Term or abbreviation</b>	<b>Description</b>
<b>FPS (Faster Payments Scheme)</b>	<i>The Faster Payments Scheme regulated payment system designated by HM Treasury under section 43 of FSBRA (The regulated payment system that provides near real-time payments as well as standing orders. It is operated by Faster Payments Scheme Limited (FPSL).)</i>
<b>FSBRA</b>	<i>Financial Services (Banking Reform) Act 2013</i>
<b>FSMA</b>	<i>Financial Services and Markets Act 2000</i>
<b>HMRC</b>	<i>Her Majesty's Revenue &amp; Customs</i>
<b>HMRC ruling</b>	<i>HMRC ruling dated 9 August 2015 to the PSR on VAT treatment of Payment Systems Regulator (PSR) fees</i>
<b>IFR (EU Interchange Fee Regulation)</b>	<i>Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions, published in the Official Journal of the EU on 19 May 2015</i>
<b>IFR card payment system</b>	<i>A payment card scheme as defined in the IFR, being a single set of rules, practices, standards and/or implementation guidelines for the execution of card-based payment transactions and which is separated from any infrastructure of payment system that supports its operation, and includes any specific decision-making body, organisation or entity accountable for the functioning of the scheme</i>
<b>IFR transactions by acquirers operating in the United Kingdom</b>	<i>All transactions subject to the IFR acquired by: (a) UK-based acquirers (or an operator acting as acquirer) resulting in payments to merchants located in the United Kingdom, where the card issuer is located in the EEA; (b) UK-based acquirers (or an operator acting as acquirer) resulting in payments to merchants located outside the United Kingdom, where the card issuer is located in the EEA; and (c) non-UK-based acquirers (or an operator acting as acquirer) resulting in payments to merchants located in the United Kingdom, where the card issuer is located in the EEA.</i>
<b>IFR transactions by card issuers operating in the United Kingdom</b>	<i>All transactions subject to the IFR on cards issued by UK-based card issuers (or an operator acting as card issuer), where the acquirer is located in the EEA.</i>

Term or abbreviation	Description
<b>'indirect billing' approach</b>	The approach to raising PSR fees whereby PSR fees are levied on direct members of Bacs, CHAPS, C&C, FPS, LINK or NICC, and on acquiring and issuing PSPs that are members of MasterCard or Visa, and which is proposed to be used for acquiring and issuing PSPs (and in some cases on operators) in IFR card payment systems. PSR fees are collected on behalf of the FCA and PSR by operators acting as collection agents (fee collection methodology). The operators also issue invoices for the PSR fees determined for individual direct members using the fee calculation methodology.
<b>interchange fees</b>	A fee paid for each transaction directly or indirectly (i.e. through a third party) between the issuer and the acquirer involved in a card-based payment transaction. The net compensation or other agreed remuneration is considered to be part of the interchange fee.
<b>JCB</b>	<i>The JCB International IFR card payment system</i>
<b>LINK</b>	<i>The LINK regulated payment system designated by HM Treasury under section 43 of FSBRA</i> (The regulated payment system which enables end users to take cash out of their accounts (amongst other activities) using the network of ATMs in the UK. It is operated by LINK Scheme.)
<b>MasterCard</b>	<i>The MasterCard regulated payment system designated by HM Treasury under section 43 of FSBRA and the MasterCard IFR card payment system</i>
<b>NICC (Northern Ireland Cheque Clearing)</b>	<i>The Northern Ireland Cheque Clearing regulated payment system designated by HM Treasury under section 43 of FSBRA</i> (The regulated payment system in Northern Ireland that processes cheques and other paper instruments. It is operated by Belfast Bankers' Clearing Company Ltd)
<b>'on us' transactions</b>	<i>Transactions where the acquirer and card issuer are the same entity</i>
<b>operator</b>	<i>In relation to a payment system, any person with responsibility under a payment system for managing or operating it; and any reference to the operation of a payment system includes a reference to its management.</i>
<b>PAD (EU Payment Accounts Directive)</b>	Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, published in the Official Journal of the EU on 28 August 2014

Term or abbreviation	Description
<b>participants</b>	<p>(a) In relation to a regulated payment system, any operator, payment service provider and infrastructure provider to a regulated payment system. See also s.42(2) FSBRA.</p> <p>(b) In relation to IFR card payment systems , any operator and payment system provider in to that IFR payment card scheme</p>
<b>payee</b>	<i>A person who is the intended recipient of transferred funds</i>
<b>payer</b>	<i>A person who holds a payment account and allows instructions to be given to transfer funds from that payment account, or who gives instructions to transfer funds</i>
<b>payment service provider (PSP)</b>	<p>(a) Any person with access to a regulated payment system who provides services to consumers or businesses who are not participants in the system, for the purposes of enabling the transfer of funds using that regulated payment system. For the purposes of FEES 9, the Bank of England is not considered a payment service provider.</p> <p>(b) Any person with access to an IFR card payment system who acts as an acquirer or card issuer for the purposes of enabling the transfer of funds under the rules of that IFR card payment system</p>
<b>payment system</b>	<i>A system which is operated by one or more persons in the course of business for the purpose of enabling persons to make transfers of funds, and includes a system which is designed to facilitate the transfer of funds using another payment system</i>
<b>payment system allocation</b>	<p>(a) For each regulated payment system listed in column 1 of Table A of FEES 9 Annex 1R, the allocation of PSR fees specified for that regulated payment system in column 2 of Table A of FEES 9 Annex 1R</p> <p>(b) For each IFR card payment system listed in column 1 of Table C of FEES 9 Annex 1R, the annual allocation of PSR fees specified for that IFR card payment system in column 2 of Table C of FEES 9 Annex 1R.</p>

Term or abbreviation	Description
<b>payment system denominator</b>	<p>(a) For each regulated payment system listed in column 1 of Table A of FEES 9 Annex 1R, the figure specified for that regulated payment system in column 6 of Table A and which is also the total transaction volumes for that regulated payment system undertaken by all relevant direct payment service providers in the relevant time period, prior to any adjustment resulting from the application of FEES 9.2.1AR</p> <p>(b) For each IFR card payment system listed in column 1 of Table C of FEES 9 Annex 1R, the figure specified for that IFR card payment system in column 4 of Table B and column 6 of Table C of FEES 9 Annex 1R, and which is also the total transaction volumes for that IFR card payment system undertaken by all relevant acquirers, card issuers and operators acting as an acquirer or card issuer in the relevant time period, prior to any adjustment resulting from the application of FEES 9.2.1BAR</p>
<b>payment transaction</b>	An action of transferring funds, initiated by the payer or on its behalf or by the payee, irrespective of any underlying obligations between the payer and the payee
<b>person</b>	(In accordance with the Interpretation Act 1978) any person, including a body of persons corporate or unincorporate (that is, a natural person, a legal person and, for example, a partnership)
<b>processing entity</b>	Any person providing payment transaction processing services, in terms of the actions required for the handling of a payment instruction between the acquirer and the card issuer in a card payment system or in an IFR card payment system
<b>PS15/25</b>	'PSR regulatory fees 2015/16' – a document published in October 2015 at <a href="https://www.psr.org.uk/about-psr/how-psr-funded">https://www.psr.org.uk/about-psr/how-psr-funded</a> and <a href="http://www.fca.org.uk">www.fca.org.uk</a>
<b>PSR</b>	The Payment Systems Regulator Limited, the body corporate established by the FCA under section 40(1) of FSBRA
<b>PSR fee (also referred to as PSR regulatory fee)</b>	The fee payable to the FCA by a direct payment service provider or by an acquirer, card issuer or operator of an IFR card payment system under FEES 9.2.1R
<b>regulated payment system</b>	Any payment systems designated by the Treasury in accordance with s.43 FSBRA. As of the date of publication this includes Bacs, C&C, CHAPS, FPS, LINK, NICC, MasterCard and Visa
<b>regulated person</b>	A person on whom an obligation, prohibition or restriction is imposed by any provision of the IFR, including participants in IFR card payment systems

Term or abbreviation	Description
<b>relevant time period</b>	<p>(a) For each regulated payment system listed in column 1 of Table A of FEES 9 Annex 1R, the time period or date specified for that regulated payment system in column 4 of Table A</p> <p>(b) For each IFR card payment system listed in and column 1 of Table C of FEES 9 Annex 1R, the time period specified for that IFR card payment system in column 2 of Table B and column 4 of Table C of FEES 9 Annex 1R</p>
<b>service- user</b>	Those who use, or are likely to use, services provided by payment systems
<b>transaction volumes</b>	<p>(a) For each regulated payment system listed in column 1 of Table A of FEES 9 Annex 1R, the number of transfers of funds of the type specified in column 5 of Table A undertaken by a direct payment service provider in the relevant time period</p> <p>(b) For each IFR card payment system listed in column 1 of Table C of FEES 9 Annex 1R, the number of transfers of funds of the type specified in column 1 of Table B and column 5 of Table C of FEES 9 Annex 1R undertaken by an acquirer, issuer or operator of an IFR card payment system acting as such an acquirer or card issuer in the relevant time period</p>
<b>transactions by acquirers operating in the UK</b>	<p>All transactions acquired by:</p> <p>(a) UK-based acquirers (or an operator acting as such an acquirer) resulting in payments to merchants located in the United Kingdom</p> <p>(b) UK-based acquirers (or an operator acting as such an acquirer) resulting in payments to merchants located outside the UK and</p> <p>(c) non-UK-based acquirers (or an operator acting as such acquirer) resulting in payments to merchants located in the UK</p>
<b>transactions by card issuers operating in the UK</b>	All transactions on cards issued by UK-based card issuers (or an operator acting as such a card issuer)
<b>(the) Treasury</b>	Her Majesty's Treasury
<b>UPI</b>	The Union Pay International IFR card payment system
<b>Visa (Visa Europe)</b>	<p>The Visa Europe regulated payment system designated by HM Treasury under section 43 of FSBRA and the Visa Europe IFR card payment system</p> <p>(The regulated payment system supporting payments made by cards and operated by Visa Europe and Visa UK Limited)</p>
<b>working days</b>	Any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom

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