

Lowering risks to delivery of  
the New Payments Architecture

## **Annexes 5 and 6**

Illustrative versions of  
Specific Directions

July 2021

## Note: Amended text

For illustrative purposes only, we show in tracked changes in these Annexes our proposed changes to the key operative parts of Specific Directions 2 and 3 as proposed to be varied by draft Specific Directions 2a and 3a ('illustrative versions'). Proposed changes are set in green and underlined. ~~Deleted text is set in red and shown struck through.~~

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# Annex 5

Illustrative version of Specific Direction 2 as proposed to be varied by draft Specific Direction 2a

## Direction

**NOW the PSR gives the following specific direction to the operator of Bacs:**

### 2 Requirement to procure

**2.1** Subject to section 5, the *operator* of Bacs must take such action as is necessary to ensure that any *central infrastructure* contract in place on ~~or after 2 December 2020, or such later date as specified by the Payment Systems Regulator in accordance with section 4 below,~~ such date as the Payment Systems Regulator may notify the operator of in writing has been procured in accordance with paragraph 2.2.

**2.1a** The Payment Systems Regulator will publish a copy of the notification on its website<sup>1</sup> within seven days of giving it.

**2.2** The procurement must include the following steps:

- a. development of a strategy for the procurement
- b. consultation with service-users, including PSPs and end users, and taking into account the views of service-users expressed in the context of the *Forum's* work where relevant
- c. fair and transparent engagement with *potential providers*
- d. development and execution of a transparent and objective process to shortlist *potential providers* for the *competitive tender*
- e. development and execution of a *competitive tender* that is based on transparent and objectively justifiable criteria, and is likely to attract two or more bids
- f. selection of the *central infrastructure* provider(s) in accordance with the *competitive tender* described at (e)

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<sup>1</sup> [psr.org.uk](https://www.psr.org.uk)

**2.3** In relation to any *central infrastructure* contract which is in place on the date ~~set out in, or specified under, paragraph 2.1~~ notified under paragraph 2.1, the *operator* of *Bacs* must ensure that the *central infrastructure services* provided under any such contract are capable of receiving and sending all relevant messages (used in the payment system) in the *ISO 20022 messaging standard*.

**2.3a** The *operator* must not enter into a new central infrastructure contract unless:

- a. the *Payment Systems Regulator* has notified it of the date the contract must be in place by (under paragraph 2.1), and it has complied with the requirements of this Section in procuring the contract, or
- b. it has given notice of its intention to enter into the contract under the non-objection process (see Section 2A), and the *Payment Systems Regulator* has given notice in writing that it does not object.

**2.3b** The *operator* must not extend the existing central infrastructure contract (including by exercising any options to do so in the contract) unless it has given notice of its intention to extend under the non-objection process (see Section 2A), and the *Payment Systems Regulator* has given notice in writing that it does not object.

**2.3c** The *operator* must comply with any conditions the *Payment Systems Regulator* gives under paragraph 2A.6.

**2.3d** Paragraphs 2.3a to 2.3c do not prevent services or system functionality being provided for in a contract as additional functionality where paragraph 2.3a of Specific Direction 3 is satisfied in relation to that functionality.

**2.4** The *operator* of *Bacs* must ensure that any *central infrastructure* contract it enters into does not provide for the provision of *central infrastructure services* for a period exceeding ten years.

**2.5** The *operator* of *Bacs* must have regard to the work of the *Forum* in fulfilling its obligations under this Specific Direction 2, including in particular in relation to:

- a. establishing service-user needs for the payment system, including taking into account the views of service-users expressed in the context of the *Forum's* work
- b. the proposal to create the *consolidated operator*
- c. the proposal to implement a common messaging standard for one or more *regulated payment systems*, including *Bacs*
- d. the proposal to develop a *New Payments Architecture* for certain *regulated payment systems*
- e. the likely timing of the implementation of the proposals referred to in (a) to (c)

## 2A Non-objection process

2A.1 If the *operator* wishes to give notice under paragraph 2.3a(b) or 2.3b, it must do so in writing.

2A.2 In the notice, the *operator* must set out:

- a. the date on which it proposes to enter into the contract or extension (or, if not known, the best estimate available)
- b. the purpose of entering into, or extending, the contract
- c. details of its consultation in relation to the new contract or extension (including on the implications for competition, innovation, service-users and the *New Payments Architecture*), including the responses and its consideration of them
- d. a copy of the proposed contract, or, if the contract is being extended, the contract with any proposed changes highlighted
- e. a summary of the terms of the contract or, if the contract is being extended, a summary of the changes to the terms of the contract
- f. information not covered by sub-paragraphs (a) to (e) that it considers will assist the *Payment Systems Regulator*, in particular information relevant to the matters set out in paragraph 2A.4.

2A.3 The *Payment Systems Regulator* may:

- a. waive the requirement for the operator to provide any of the material mentioned in paragraph 2A.2 (to any extent)
- b. require further material that it considers appropriate for the non-objection process

2A.4 In deciding whether to object (and whether to attach conditions to not objecting), the *Payment Systems Regulator* will take into account matters it considers relevant, including:

- a. whether the *operator* has consulted interested parties adequately, and how it has taken their views into account
- b. the strength of the *operator's* arguments for its intended course of action (including the risks involved), and how it compares to alternative actions it has considered (or should have considered)
- c. the implications for competition, innovation, and service-users, including consumers and businesses
- d. the implications for the benefits of the *New Payments Architecture*
- e. the implications for the *operator's* ability to comply with all its obligations under this *Specific Direction 2*

2A.5 The *Payment Systems Regulator* will notify the operator in writing whether or not it objects.

2A.6 The *Payment Systems Regulator* may attach conditions to a notification that it is not objecting (for example, conditions about the services to be included in the contract).

## ~~3 Reporting requirement~~

~~3.1~~ The operator of *Bacs* must report to the *Payment Systems Regulator* on its work under this Specific Direction 2 in accordance with paragraph 3.2. Each report must include:

- ~~a.~~ A description of the operator's progress in relation to the steps outlined at 2.2.
- ~~b.~~ Evidence demonstrating that, and a description of how, each of the requirements outlined at paragraph 2.2 has been, or will be, fulfilled, including:
  - ~~1.~~ Evidence demonstrating that, and a description of how, the operator has taken into account the results of its consultation with service users.
  - ~~2.~~ Evidence demonstrating that, and a description of how, the operator has taken into account the results of its engagement with potential providers.
- ~~e.~~ Evidence demonstrating that, and a description of how, the requirement outlined at 2.5 has been, or will be, fulfilled, including the operator's plans in relation to any application it may make in accordance with Section 4.

~~3.2~~ Unless otherwise specified by the *Payment Systems Regulator* in writing, the operator of *Bacs* must submit the reports required by paragraph 3.1 to the *Payment Systems Regulator* every six months, starting on 29 September 2017. The *Payment Systems Regulator* may specify that reports be submitted on particular dates, by reference to particular steps of a procurement process, or that reporting dates may be suspended for a period of time.

## 3 Reporting requirements

3.1 The reporting requirement set out in paragraphs 3.2 to 3.4 applies until the *Payment Systems Regulator* notifies the operator in writing that it has ended.

3.2 The operator must report to the *Payment Systems Regulator* on its work considering the future of the *Bacs* system (including *Bacs* payment services such as Direct Credits and Direct Debits).

- 3.3** As a minimum these reports must describe past (if not previously reported on), current or expected work relating to:
- a. the operator's views and expectations about future demand for Bacs payment services, including supporting processes, channels and services, including how this affects its position on sub-paragraphs (b) to (h)
  - b. extending the existing Bacs central infrastructure contract, or replacing it with a new central infrastructure contract
  - c. adding functionality to, or removing it from, Bacs
  - d. replicating or replacing functionality available in Bacs in the New Payments Architecture
  - e. migrating types of payments that Bacs processes to the New Payments Architecture
  - f. the operator's engagement with its stakeholders, and the outcome
  - g. any proposal for the operator to give notice that it intends to enter into a new infrastructure contract, or extend an existing contract
  - h. changing the way Bacs, or functions it carries out, operate, in a way that is relevant to the New Payments Architecture (where not covered by sub-paragraphs (a) to (g))

The report should include the operator's conclusions, as applicable to the stage reached, on the work.

- 3.4** The operator must submit a report on or before 30 June and 31 December each year. The first report is due on 30 June 2022.

- 3.5** If the Payment Systems Regulator has notified the operator of Bacs of a date under paragraph 2.1, the operator must report to the Payment Systems Regulator on its work under Section 2 of this Direction. This reporting requirement applies until the Payment Systems Regulator notifies the operator in writing that it has ended. As a minimum, each report must include:

- a. a description of the operator's progress in relation to the procurement steps in paragraph 2.2
- b. evidence demonstrating that, and a description of how, each of the requirements outlined at paragraph 2.2 has been, or will be, fulfilled, including:
  1. evidence demonstrating that, and a description of how, the operator has taken into account the results of its consultation with interested parties
  2. evidence demonstrating that, and a description of how, the operator has taken into account the results of its engagement with potential providers
- c. evidence demonstrating that, and a description of how, the requirement outlined at paragraph 2.5 has been, or will be, fulfilled.



3.6 The *operator* must submit a report on or before 31 March, 30 June, 30 September and 31 December each year. The *Payment Systems Regulator* will notify the operator of the date on which the first report is due when it gives notice of the date under paragraph 2.1.

3.7 In respect of a report required under paragraph 3.2 or 3.5, the *Payment Systems Regulator* may:

- a. add to the matters that the *operator* must include in the report
- b. remove the requirement to cover any particular matter in the report
- c. suspend the requirement on the *operator* to provide a report, either for a specified period or indefinitely
- d. change the frequency of the reports
- e. require the operator to submit a report on, or before, a different date

It will notify the *operator* of any of these changes in writing.

3.8 A change made under paragraph 3.7(a) or (b) can apply to a specific report or for an indefinite period.

3.9 The *Payment Systems Regulator* may publish a report, or require the *operator* to publish it. The *operator* must comply with any deadline that the *Payment Systems Regulator* sets for this.

3.10 The *Payment Systems Regulator* will take account of issues around confidentiality in deciding what should be published. In particular, it may require the *operator* to provide a version of the report that excludes confidential information for publication."

## ~~4 Application to the *Payment Systems Regulator* to extend the date for compliance for transitional arrangement in relation to the *New Payments Architecture*~~

~~4.1~~ The *Payment Systems Regulator* may specify a date later than 1 December 2020 for the purposes of paragraph 2.1 where, in its opinion, this is required because of the implementation of the *New Payments Architecture*.

~~4.2~~ The *operator* of *Bacs* may apply to the *Payment Systems Regulator* seeking a date to be specified for the purposes of paragraph 2.1.

~~4.3~~ Applications under paragraph 4.2 may be made no earlier than 29 September 2017.

~~4.4 Applications under paragraph 4.2 may be made no later than 31 May 2018.~~

~~4.5 Applications under paragraph 4.2 must include:~~

- ~~a. why, in the operator's view, it would not be efficient to comply with the obligation in time for a competitively procured contract to be operational by 1 December 2020, by reference to the anticipated length of the next central infrastructure contract, and supporting evidence;~~
- ~~b. the steps the operator is taking, or proposes to take, in relation to securing the provision of central infrastructure absent full compliance with this Specific Direction 2 and the operator's assessment of how these steps will achieve an outcome that will promote the interests of service users; and~~
- ~~c. when the operator expects that it, or another operator of Bacs, will comply with all of its obligations under this Specific Direction 2.~~

~~4.6 The Payment Systems Regulator will consider the application provided and all facts it considers relevant at the time.~~

~~4.7 The Payment Systems Regulator may reject an application or specify the date sought in the application, or such other date as it sees fit, and may make the specification of such later date subject to compliance by the operator with any conditions set out in its decision. Such conditions may, in particular, include a requirement that the operator undertakes steps in relation to any interim contract for central infrastructure services (for example, certain of the steps outlined at paragraph 2.2).~~

## 5 Exemption for exceptional circumstances

5.1 The operator of Bacs may apply to the Payment Systems Regulator for an exemption from the duty to comply with one or more of the obligations set out in this Specific Direction 2. Such applications must include:

- a. the exceptional circumstances which the operator maintains justify the application
- b. the steps which the operator is taking, or proposing to take, to mitigate any risks arising from its non-compliance
- c. whether, and when, the operator expects to recommence compliance with all of its obligations under this Specific Direction 2

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

- 5.3** Where the *Payment Systems Regulator* has approved an application, the *operator* must comply with its obligations under this Specific Direction 2 before such date as the *Payment Systems Regulator* specifies in the approval of the application.

## 6 Application

- 6.1** This specific direction applies to the *operator* of *Bacs*.
- 6.2** The *operator* of *Bacs* may, where appropriate, fulfil its obligations set out in this Specific Direction 2 jointly with one or more of the *operator(s)* of FPS and *Cheque and Credit*. The *operator* of *Bacs* remains individually subject to the obligations set out in this specific direction regardless of any joint compliance.

## 7 Commencement

- 7.1** This specific direction comes into force on 20 June 2017.
- 7.2** This specific direction shall continue in force until such time as it is varied or revoked by the *Payment Systems Regulator*.

## 8 Citation

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

## 9 Interpretation

- 9.1** General Provisions GP2 and GP3 are incorporated into this specific direction and are to be read as a direction under section 54 of the Act for the purposes of this specific direction.
- 9.2** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 9.3** The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament except where words and expressions are expressly defined.
- 9.4** References to any statute or statutory provisions shall be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

## 9.5 In this specific direction:

<b>Act</b>	Means the Financial Services (Banking Reform) Act 2013
<b>Bacs</b>	Means the <i>Bacs regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
<b>central infrastructure</b>	Means the whole, or any part of, a package of systems and services, comprising hardware and software, provided under contract to an <i>operator</i> for the purposes of operating <i>Bacs</i> <a href="#">(or a system that forms part of the New Payments Architecture, to the extent it is intended to be a successor to Bacs)</a> , including the processing of funds transfers
<b>central infrastructure contract</b>	Means a contract between an <i>operator</i> and another person for the provision of <i>central infrastructure</i>
<b>central infrastructure provider</b>	Means an infrastructure provider when providing <i>central infrastructure</i>
<b>Cheque and Credit</b>	Means the Cheque and Credit <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
<b>competitive tender</b>	Means a process by which an <i>operator</i> invites and evaluates bids for the provision of <i>central infrastructure</i>
<b>Consolidated operator</b>	The person created in furtherance of the <i>Forum's</i> proposal to consolidate the person who is responsible, at 20 June 2017, for fulfilling the role of <i>operator</i> of <i>Bacs</i> with the persons responsible for fulfilling the role of <i>operator</i> for one or more other <i>regulated payment systems</i>
<b><a href="#">enter into a new central infrastructure contract</a></b>	<a href="#">Includes amending a central infrastructure contract within the meaning of Specific Direction 3 in order to provide for central infrastructure within the meaning of this Direction</a>
<b>existing central infrastructure contract</b>	Means the agreements between BPSL and Vocalink of 7 November 2014, as amended from time to time
<b>existing messaging standard</b>	Means the Standard 18 messaging standard
<b>Faster Payments Scheme (FPS)</b>	Means the Faster Payments Scheme <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
<b>Forum</b>	The Payments Strategy <i>Forum</i>

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<b>infrastructure provider</b>	Has the meaning given by section 42(4) of the Act
<b>ISO 2022 messaging standard</b>	An international financial messaging standard developed to facilitate electronic data interchange between financial institutions, and which supports interoperability between all parties in the payments process
<b>New Payments Architecture</b>	Means the proposed new architecture for certain <i>regulated payment systems</i> , known as the simplified payments platform, as set out in the <i>Forum's</i> November 2016 document, 'A Payments Strategy for the 21st Century'
<b>operator</b>	Has the meaning given by section 42(3) of the Act
<b>payment system</b>	Has the meaning given by section 41 of the Act
<b>Payment Systems Regulator</b>	Means the body corporate established under Part 5 of the Act
<b>potential provider</b>	Means a person who is a <i>central infrastructure</i> provider or who, in future, has the potential to become a <i>central infrastructure</i> provider
<b>procurement</b>	Means the process of entering into a contract for the acquisition, by an <i>operator</i> , of <i>central infrastructure</i> from another person chosen by that <i>operator</i>
<b>regulated payment system</b>	Means a payment system designated by HM Treasury under section 43 of the Act in March 2015

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# Annex 6

Illustrative version of Specific Direction 3 as proposed to be varied by draft Specific Direction 3a

## Direction

**NOW the PSR gives the following specific direction to the *operator* of FPS:**

### 2 Requirement to procure

- 2.1** Subject to section 5, the *operator* of FPS must take such action as is necessary to ensure that any *central infrastructure* contract in place on or after ~~1 July 2020, or such later date as specified by the Payment Systems Regulator in accordance with section 4 below;~~ 1 April 2026 has been procured in accordance with paragraph 2.2.
- 2.2** The procurement must include the following steps:
- a. development of a strategy for the procurement
  - b. consultation with service-users, including PSPs and end users, and taking into account the views of service-users expressed in the context of the *Forum's* work where relevant
  - c. fair and transparent engagement with *potential providers*
  - d. development and execution of a transparent and objective process to shortlist *potential providers* for the *competitive tender*
  - e. development and execution of a *competitive tender* that is based on transparent and objectively justifiable criteria, and is likely to attract two or more bids
  - f. selection of the *central infrastructure* provider(s) in accordance with the *competitive tender* described at e)
- 2.3** In relation to any *central infrastructure* contract which is in place on the date set out in ~~, or specified under,~~ paragraph 2.1, the *operator* of FPS must ensure that the *central infrastructure* services provided under any such contract are capable of receiving and sending all relevant messages (used in the payment system) in the *ISO 20022 messaging standard*.

**2.3a** The operator must ensure that any central infrastructure contract in place on the date set out in paragraph 2.1:

- provides for the minimum scope but
- does not provide for services or system functionality beyond the minimum scope (“the additional functionality”) unless:
  - a. it has given notice of its intention to include the additional functionality under the non-objection process (see Section 2A) and
  - b. the Payment Systems Regulator has given notice in writing that it does not object.

**2.3b** The operator must comply with any conditions given under paragraph 2A.6.

**2.4** The operator of FPS must ensure that any central infrastructure contract it enters into does not provide for the provision of central infrastructure services for a period exceeding ten years.

**2.5** The operator of FPS must have regard to the work of the Forum in fulfilling its obligations under this Specific Direction 3, including in particular in relation to:

- a. establishing service-user needs for the payment system
- b. the proposal to create the consolidated operator
- c. the proposal to implement a common messaging standard for one or more regulated payment systems, including FPS
- d. the proposal to develop a New Payments Architecture for certain regulated payment systems
- e. the likely timing of the implementation of the proposals referred to in a) to d)

## **2A Non-objection process**

**2A.1** If the operator gives notice under paragraph 2.3a, it must do so in writing.

**2A.2** In the notice, the operator must set out:

- a. the additional functionality
- b. why it considers it appropriate to include the additional functionality
- c. details of its consultation in relation to including the additional functionality (including on the implications for competition, innovation, service-users and the development of the New Payments Architecture), including the responses and its consideration of them

- d. information not covered by sub-paragraphs (a) to c) that it considers will assist the *Payment Systems Regulator*, in particular information relevant to the matters set out in paragraph 2A.4

**2A.3** The *Payment Systems Regulator* may:

- a. waive the requirement for the *operator* to provide any of the material mentioned in paragraph 2A.2 (to any extent)
- b. require further material that it considers appropriate for the non-objection process

**2A.4** In deciding whether to object (and whether to attach conditions to not objecting), the *Payment Systems Regulator* will take into account matters it considers relevant, including:

- a. whether the *operator* has consulted interested parties adequately, and how it has taken their views into account
- b. the implications for competition and innovation in payment services and related services. This includes:
  - 1. whether the additional functionality is a temporary or long-term measure
  - 2. whether the *operator* has given sufficient consideration to other ways of achieving similar user outcomes
  - 3. the implications for competition between *payment systems*
- c. the implications for system resilience and risks, including those relating to any foreseen or planned migration of payments from other *payment systems*
- d. the implications for service-users including consumers and businesses, including any costs of the additional functionality
- e. the implications for the timetable for the award of the contract and the delivery of the *New Payments Architecture*
- f. the benefits of the additional functionality being included in the contract that will apply on the date set out in paragraph 2.1
- g. the implications for the *operator's* ability to comply with all its obligations under this Specific Direction 3

**2A.5** The *Payment Systems Regulator* will notify the operator in writing whether or not it objects.

**2A.6** The *Payment Systems Regulator* may attach conditions to a notification that it is not objecting (for example, that only certain additional functionality may be included in the contract).



## 3 Reporting requirement

**3.1** The *operator* of FPS must report to the *Payment Systems Regulator* on its work under this Specific Direction 3 in accordance with paragraph 3.2. ~~Each report must include~~ Each report must, as a minimum, include:

- a. A description of the *operator's* progress in relation to the steps outlined at 2.2.
- b. Evidence demonstrating that, and a description of how, each of the requirements outlined at paragraph 2.2 has been, or will be, fulfilled, including:
  1. Evidence demonstrating that, and a description of how, the *operator* has taken into account the results of its consultation with service-users.
  2. Evidence demonstrating that, and a description of how, the *operator* has taken into account the results of its engagement with *potential providers*.
- c. Evidence demonstrating that, and a description of how, the requirement outlined at 2.5 has been, or will be, fulfilled, ~~including the operator's plans in relation to any application it may make in accordance with Section 4.~~
- d. A description of the *operator's* progress in relation to paragraph 2.3a.
- e. Information about any plan to give notice under paragraph 2A.1.

~~**3.2** Unless otherwise specified by the *Payment Systems Regulator* in writing, the *operator* of FPS must submit the reports required by paragraph 3.1 to the *Payment Systems Regulator* every six months, starting on 29 September 2017. The *Payment Systems Regulator* may specify that reports be submitted on particular dates, by reference to particular steps of a procurement process, or that reporting dates may be suspended for a period of time.~~

**3.2** In respect of a report required under paragraph 3.1, the *Payment Systems Regulator* may:

- a. add to the matters that the *operator* must include in the report
- b. remove the requirement to cover any particular matter in the report
- c. suspend the requirement on the *operator* to provide a report, either for a specified period or indefinitely
- d. change the frequency of the reports
- e. require the *operator* to submit a report on, or before, a different date

It will notify the *operator* of any of these changes in writing.

**3.3** A change made under paragraph 3.2(a) or (b) can apply to a specific report or for an indefinite period.

- 3.4 The *operator* must submit a report on or before 31 March, 30 June, 30 September and 31 December each year. The first report is due on 31 March 2022. This reporting requirement applies until the *Payment Systems Regulator* notifies the *operator* in writing that it has ended.
- 3.5 The *Payment Systems Regulator* may publish a report, or require the *operator* to publish it. The *operator* must comply with any deadline that the *Payment Systems Regulator* sets for this.
- 3.6 The *Payment Systems Regulator* will take account of issues around confidentiality in deciding what should be published. In particular, it may require the *operator* to provide a version of the report that excludes confidential information for publication.

## ~~4 Application to the *Payment Systems Regulator* to extend the date for compliance for transitional arrangement in relation to the *New Payments Architecture*~~

- ~~4.1~~ The *Payment Systems Regulator* may specify a date later than 1 July 2020 for the purposes of paragraph 2.1 where, in its opinion, this is required because of the implementation of the *New Payments Architecture*.
- ~~4.2~~ The *operator* of FPS may apply to the *Payment Systems Regulator* seeking a date to be specified for the purposes of paragraph 2.1.
- ~~4.3~~ Applications under paragraph 4.2 may be made no earlier than 29 September 2017.
- ~~4.4~~ Applications under paragraph 4.2 may be made no later than 31 May 2018.
- ~~4.5~~ Applications under paragraph 4.2 must include:
- ~~a.~~ why, in the *operator's* view, it would not be efficient to comply with the obligation in time for a competitively procured contract to be operational by 1 July 2020, by reference to the anticipated length of the next *central infrastructure* contract, and supporting evidence;
  - ~~b.~~ the steps the *operator* is taking, or proposes to take, in relation to securing the provision of *central infrastructure* absent full compliance with this Specific Direction 3 and the *operator's* assessment of how these steps will achieve an outcome that will promote the interests of service users; and
  - ~~c.~~ when the *operator* expects that it, or another *operator* of FPS, will comply with all of its obligations under this Specific Direction 2.

- ~~4.6 — The *Payment Systems Regulator* will consider the application provided and all facts it considers relevant at the time.~~
- ~~4.7 — The *Payment Systems Regulator* may reject an application or specify the date sought in the application, or such other date as it sees fit, and may make the specification of such later date subject to compliance by the *operator* with any conditions set out in its decision. Such conditions may, in particular, include a requirement that the *operator* undertakes steps in relation to any interim contract for *central infrastructure services* (for example, certain of the steps outlined at paragraph 2.2).~~

## 5 Exemption for exceptional circumstances

- 5.1 The *operator* of FPS may apply to the *Payment Systems Regulator* for an exemption from the duty to comply with one or more of the obligations set out in this Specific Direction 3. Such applications must include:
- the exceptional circumstances which the *operator* maintains justify the application;
  - ~~the steps which the *operator* is taking in relation to securing the provision of *central infrastructure services* absent full compliance with this Specific Direction 3; and~~ the steps which the *operator* is taking, or proposing to take, to mitigate any risks arising from its non-compliance
  - whether, and when, the *operator* expects to recommence compliance with all of its obligations under this Specific Direction 3.
- 5.2 The *Payment Systems Regulator* may reject an application or approve it in whole, or in part, and may make such approval subject to compliance with any conditions.
- 5.3 Where the *Payment Systems Regulator* has approved an application, the *operator* must comply with its obligations under this Specific Direction 3 before such date as the *Payment Systems Regulator* specifies in the approval of the application.

## 6 Application

- 6.1** This specific direction applies to the *operator* of FPS.
- 6.2** The *operator* of FPS may, where appropriate, fulfil its obligations set out in this Specific Direction 3 jointly with one or more of the *operator(s)* of *Bacs* and *Cheque and Credit*. The *operator* of FPS remains individually subject to the obligations set out in this specific direction regardless of any joint compliance.

## 7 Commencement

- 7.1** This specific direction comes into force on 20 June 2017.
- 7.2** This specific direction shall continue in force until such time as it is varied or revoked by the *Payment Systems Regulator*.

## 8 Citation

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

## 9 Interpretation

- 9.1** General Provisions GP2 and GP3 are incorporated into this specific direction and are to be read as a direction under section 54 of the Act for the purposes of this specific direction.
- 9.2** The headings and titles used in this specific direction are for convenience and have no legal effect.
- 9.3** The Interpretation Act 1978 applies to this specific direction as if it were an Act of Parliament except where words and expressions are expressly defined.
- 9.4** References to any statute or statutory provisions shall be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.

## 9.5 In this specific direction:

<b>Act</b>	Means the Financial Services (Banking Reform) Act 2013
<b>Bacs</b>	Means the <i>Bacs regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
<b>central infrastructure</b>	Means the whole, or any part of, a package of systems and services, comprising hardware and software, provided under contract to an <i>operator</i> for the purposes of operating <i>FPS</i> <a href="#">(or a system that forms part of the New Payments Architecture)</a> , including the processing of funds transfers
<b>central infrastructure contract</b>	Means a contract between an <i>operator</i> and another person for the provision of <i>central infrastructure</i>
<b>central infrastructure provider</b>	Means an infrastructure provider when providing <i>central infrastructure</i>
<b>Cheque and Credit</b>	Means the Cheque and Credit <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
<b>competitive tender</b>	Means a process by which an <i>operator</i> invites and evaluates bids for the provision of <i>central infrastructure</i>
<b>Consolidated operator</b>	The person created in furtherance of the <i>Forum's</i> proposal to consolidate the person who is responsible, at 20 June 2017, for fulfilling the role of <i>operator</i> of <i>FPS</i> with the persons responsible for fulfilling the role of <i>operator</i> for one or more other <i>regulated payment systems</i>
<b>existing central infrastructure contract</b>	Means the agreements between FPSL and VocaLink of 10 February 2014 relating to the provision of Managed Services for a Faster Payments Service, as amended from time to time
<b>existing messaging standard</b>	Means FPS's implementation of the ISO 8583 messaging standard, plus its use of Standard 18 for Direct Corporate Access submissions
<b>Faster Payments Scheme (FPS)</b>	Means the Faster Payments Scheme <i>regulated payment system</i> designated by HM Treasury under section 43 of the Act in March 2015
<b>Forum</b>	The Payments Strategy <i>Forum</i>
<b>infrastructure provider</b>	Has the meaning given by section 42(4) of the Act

<b>ISO 2022 messaging standard</b>	An international financial messaging standard developed to facilitate electronic data interchange between financial institutions, and which supports interoperability between all parties in the payments process
<b><u>Minimum scope</u></b>	<u>the services and system functionality needed to process single push payments</u>
<b>New Payments Architecture</b>	Means the proposed new architecture for certain <i>regulated payment systems</i> , known as the simplified payments platform, as set out in the <i>Forum</i> 's November 2016 document, 'A Payments Strategy for the 21st Century'
<b>operator</b>	Has the meaning given by section 42(3) of the Act
<b>payment system</b>	Has the meaning given by section 41 of the Act
<b>Payment Systems Regulator</b>	Means the body corporate established under Part 5 of the Act
<b>potential provider</b>	Means a person who is a <i>central infrastructure</i> provider or who, in future, has the potential to become a <i>central infrastructure</i> provider
<b>procurement</b>	Means the process of entering into a contract for the acquisition, by an <i>operator</i> , of <i>central infrastructure</i> from another person chosen by that <i>operator</i>
<b>regulated payment system</b>	Means a payment system designated by HM Treasury under section 43 of the Act in March 2015
<b><u>Single push payment</u></b>	<u>A payment that is initiated by or on behalf of the payer where both submission to and output from the <i>central infrastructure</i> happens on the same day using single payment messages. It can be an immediate payment or any other same-day payment, including a diarised payment</u>

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