

Review of existing Directions

Response to consultation
CP19/3 on draft Directions

March 2020

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1 Executive summary

We have issued new versions of our 'day one' General and Specific Directions. This paper explains the final changes we have made following consultation on the wording of the Directions.

The PSR gives Directions to regulated parties to enable us to perform our general functions relating to payment systems. Directions are one way we can compel an organisation, or group of organisations, to take a certain type of action, and they form an important part of our regulatory toolkit.

In March 2018, we issued a consultation paper (CP18/1) on the review of the General and Specific Directions we issued on our launch in 2015. The purpose of the review was to ensure our Directions remain relevant and proportionate, reflecting market realities, changes to legislation and our role, and potential future developments.

In March 2019, we issued a policy statement (CP19/3) explaining our policy decisions on changes to the Directions, and released a draft text of the proposed revised Directions for consultation.

We have engaged extensively with stakeholders, including holding roundtables and individual meetings with stakeholders, and considered all points raised during consultation.

We have now issued new General Directions 1 to 5 and Specific Direction 1. General Directions 1 to 5 will take effect from 5 April 2020. Specific Direction 1 will take effect from 5 May 2020.

Background

1.1 In 2015, as part of establishing our initial regulatory framework, we issued six General Directions (GDs) and one Specific Direction (SD), which came into effect between April and September 2015. We issued these under our Financial Services (Banking Reform) Act 2013 (FSBRA) powers. The majority of the Directions were intended to improve access to, and the governance of, payment systems in the UK.

1.2 These 'day one' Directions focused on three key themes:

- **GD1:** Ensuring that regulated participants dealt with us in an open and cooperative way and disclosed relevant information to us.
- **The 'governance package' (GDs 4, 5 and 6):** Improving service-user representation in the decision-making processes of payment system operators (PSOs); improving transparency of PSOs' decision-making through publication of minutes; and avoiding conflicts of interest through any director of certain PSOs also being a director of the central infrastructure provider to the same PSO.
- **The 'access package' (GDs 2 and 3, and SD1):** Opening up direct access to certain regulated payment systems by:
 - ensuring their access requirements were objective and risk-based (or otherwise in line with EU law on payment system access)
 - the PSOs made information on access options, including indirect access services, publicly available

- 1.3** There have been various market and legislative changes since we introduced our Directions, including:
- changes driven by our work, and resulting from the work we set out for the Payments Strategy Forum¹
 - the coming into force of the revised EU Payment Services Directive (PSD2) and Interchange Fee Regulation, implemented in the UK through the Payment Services Regulations (PSRs 2017) and the Payment Card Interchange Fee Regulations 2015 (PCIFRs) respectively
 - the creation of Pay.UK (formerly the New Payment System Operator (NPSO)), which is now the operator of Bacs, Faster Payments Scheme (FPS) and Cheque and Credit Clearing (C&CC)
 - the impact of our remedies following our market review into the ownership and competitiveness of infrastructure provision, such as improved procurement exercises
 - new indirect access providers (IAPs) entering the market
 - the Bank of England taking over delivery of the high-value payment system CHAPS
- 1.4** We have also gained experience in applying and monitoring our Directions, and so have been able to adapt them to reflect that experience.
- 1.5** In 2018, we launched a review of our Directions to take account of these changes and our increased knowledge of the market since we issued them. Through this review, we wanted to ensure that our Directions:
- advance our duties and our statutory objectives of promoting competition, innovation and the interests of service-users
 - are relevant, proportionate, targeted and reflect the principles of better regulation
 - reflect market realities and the wider legislative context
- 1.6** In March 2018, we published our consultation paper CP18/1², *Review of PSR Directions made in 2015*.
- 1.7** Overall, we have seen real benefits flow from our Directions and did not consider that we needed to radically rethink our approach. For example, since we imposed our access Directions on interbank PSOs in 2015, the time it takes to onboard to the payment systems has reduced, the costs that payment service providers (PSPs) incur to onboard to the payment systems have reduced and direct participation in the UK payment systems has increased significantly.
- 1.8** However, we made some changes to ensure these Directions remain relevant and proportionate, and to tailor our requirements to market realities, legislative changes and expected future developments.

1 We created the Payments Strategy Forum (the Forum) to develop a strategy for payment systems in the United Kingdom. See www.paymentsforum.uk/

2 www.psr.org.uk/review-psr-directions-made-2015-directions-access-governance-and-participants'-relationships-psr

1.9 In March 2019, we released our policy statement CP19/3³, where we set out our policy decisions on changes to our ‘day one’ Directions, and released a draft text of the proposed Directions for consultation on their wording.

1.10 We have now finalised the changes to the Directions. This document sets out changes we have made following our consultation on the wording of the proposed revised Directions (CP19/3).

1.11 Table 1 sets out the key changes made to the proposed Directions.

Table 1: Summary of key changes following consultation on CP19/3

Direction	Will apply to	Key changes following consultation
<p>GD1 Cooperative relationships with the PSR</p>	<p>Participants under FSBRA, regulated persons under the PCIFRs and the PSRs 2017</p>	<ul style="list-style-type: none"> • We have amended our Explanatory Notes to help regulated persons and participants know when to notify us. We have: <ul style="list-style-type: none"> ○ added wording to the Explanatory Notes on our functions and objectives to make them clearer ○ clarified that notification obligations under GD1 continue to apply if a different reporting obligation exists but the reporting threshold for that competing obligation has not been reached ○ clarified the information we expect to receive under GD1 where there are legal restrictions to disclosure ○ clarified that generally we do not expect GD1 to apply to individual regulation 105 PSRs 2017 notifications ○ amended the list of examples under the Explanatory Notes, including narrowing the description of the types of failures that should be reported, and removing one example. • We will provide information on our website on how to make a notification under GD1, and who to send notifications to, for those who do not have a known contact at the PSR.

³ www.psr.org.uk/decision-review-our-day-one-directions-and-cp193-consultation-proposed-directions

Direction	Will apply to	Key changes following consultation
GD2 Access (FSBRA)	The operators of FPS, Bacs and C&CC	<ul style="list-style-type: none"> No key changes
GD3 Access (PSRs 2017)	The operators of Visa Europe, Mastercard, JCB International, UnionPay International, Diners Club International, American Express and LINK	<ul style="list-style-type: none"> No key changes
GD4 (New Direction) Service-user interests (interbank payment systems)	The operators of FPS, Bacs, C&CC and LINK	<ul style="list-style-type: none"> We have made the date when PSOs must publish their public report flexible, so that 31 October is the backstop date for publication rather than a fixed date.
GD5 Conflict of interest (FSBRA)	The operators of FPS, Bacs, C&CC and LINK	<ul style="list-style-type: none"> We have made minor changes to improve readability and for consistency with other Directions.
SD1 Access (sponsor banks)	IAPs offering sponsor bank services (agency access)	<ul style="list-style-type: none"> We have clarified the coverage to ensure the Direction covers: <ul style="list-style-type: none"> all entities within a ring-fenced group all indirect access services We have clarified the requirement to provide a timeline to applicants.

Next steps

1.12 At the date of this publication, we have issued new GDs 1 to 5 and SD1.

1.13 There is a one-month transition period for all the GDs, until 5 April 2020, and a two-month transition period for SD1 until 5 May 2020. The 'day one' versions of these Directions cease to apply on these dates.

2 Our response to stakeholder submissions

We received 11 responses to our consultation. Five came from IAPs, three from card payment systems, two from interbank PSOs and one from an industry body. Most respondents only commented on the Directions that they considered relevant to them.

The respondents generally supported the draft Directions and our proposed wording.

The majority of the comments related to GD1. Stakeholders generally supported the inclusion of examples in the Explanatory Notes, considering them to provide useful guidance and clarification. One stakeholder, however, queried the need for examples and thought they may be confusing. Some stakeholders raised concerns with specific examples.

In this chapter we summarise the issues raised, and our responses.

We have made some changes to the wording of the Directions and the Explanatory Notes. Our final Directions are at Annex 1.

General Direction 1

Background

- 2.1** The purpose of GD1 is to drive a 'no surprises' culture, to ensure there are no gaps in regulatory requirements and ensure participants and regulated persons deal with us in an open and cooperative way.
- 2.2** We have broadened the scope of GD1, so that as well as applying to participants under FSBRA, it also applies to regulated persons under the PCIFRs and the PSRs 2017 (collectively referred to here as 'regulated parties'). The intention of the changes to GD1, as set out in CP19/3, is to improve clarity and provide a non-exhaustive list of situations that we expect regulated parties to notify us of. This should help regulated parties understand their obligations and improve compliance.

Stakeholder views

- 2.3** Stakeholders were broadly supportive of our updated GD1, including the expanded scope.
- 2.4** The majority of issues raised by stakeholders relate to the examples in the Explanatory Notes.
- 2.5** Some submissions considered the non-exhaustive list of examples to be helpful, while others raised concerns with particular examples, considering them too broad. One stakeholder considered the addition of non-exhaustive examples to be unnecessary and potentially confusing. This stakeholder also considered that any future revisions to the examples should be subject to consultation.

Relying on Memorandums of Understanding

- 2.6** Some submissions noted that regulated parties are already required to report certain information to other regulators, such as the Financial Conduct Authority (FCA) or the Bank of England. They felt that we should rely on Memorandums of Understanding to get this information, rather than require regulated parties to report it to us directly.

Consistency

- 2.7** A number of responses suggested that we should echo the FCA's approach to regulatory information gathering, saying it would be helpful if we aligned our notification requirements with the FCA's.
- 2.8** A specific example given in some submissions was potential duplication of the reporting requirements to the FCA under regulation 99 of the PSRs 2017, relating to system failures and interruptions.
- 2.9** Respondents noted that the FCA's approach to compliance and notification is well known and has been embedded into its policies. They said there is a risk of inconsistency between the FCA's and the PSR's requirements leading to industry-wide confusion.

Materiality

- 2.10** Some stakeholders said we should add materiality thresholds to various examples in the Explanatory Notes. For example, some respondents considered that notifying us of *any* (italics added) failure in a payment system that prevents service-users from making payments was an excessively broad requirement.
- 2.11** One stakeholder questioned why the examples on changes to services, requirements and rules are limited to credit institutions, rather than covering all PSPs. Another asked us to clarify that our proposed reporting requirements are limited to indirect PSPs' ability to send or receive payments, and do not encompass wider banking services.
- 2.12** One stakeholder noted it would be helpful to state which parties are responsible for reporting particular issues to us.
- 2.13** Some respondents questioned whether notifications credit institutions have to give us under regulation 105 of the PSRs 2017 must also be reported to us separately under GD1.

Duplicative requirements and confusing wording

- 2.14** Several respondents noted that there was an element of duplication in GD1, in that some of the examples listed in the Explanatory Note appear to mirror situations where there is another reporting obligation to the PSR (for example, GD3).

Other comments

- 2.15** Some respondents asked whether GD1 requires regulated parties to report issues to us when another obligation prevents it (such as a confidentiality obligation to another regulator).
- 2.16** One stakeholder noted that information relating to new or different products or services will be commercially sensitive.

- 2.17** Several respondents asked us to clarify how GD1 notifications should be made, and to whom. One suggested we could provide a specific email address or contact details for GD1 notifications.

Our response

Our expectations

- 2.18** We consider it is helpful to provide examples in the Explanatory Notes. The examples are intended to be illustrative and non-exhaustive, to help regulated parties assess the sorts of information we expect them to notify us of so they can comply with GD1. Where a regulated party is in doubt, we welcome queries as to whether notification is necessary.
- 2.19** The purpose of GD1 has always been to drive a 'no-surprises' culture and open and cooperative relationships between the PSR and regulated parties.
- 2.20** GD1 applies to all dealings that regulated parties have with us. It is an ongoing obligation. It covers both bringing a matter to our attention for the first time and where there is an existing dialogue.
- 2.21** As set out in our policy statement, GD1 applies to all information expected by, and provided to, the PSR, in whatever format. This means that GD1 applies to regulatory requirements (for example, notices under section 81 of FSBRA) or other formal uses of our powers, as well as to informal requests for information (oral or written), conversations and other engagements with the PSR.
- 2.22** We have re-ordered the wording of the example at paragraph 18 of the Explanatory Notes to GD1 to improve clarity on this point.
- 2.23** Regulated parties must give us sufficient information to enable us to understand the nature of the relevant issue. Where applicable, they must provide supporting evidence. This will help us to determine what, if any, further action to take, including whether to make further inquiries.
- 2.24** The Explanatory Notes only offer guidance on the application of the new GD1. In the light of the comments we received, we have amended them to make them clearer. This includes through the use of headings to illustrate when a regulated party might consider whether it should notify us of an issue. When considering their obligations, regulated parties should consider the revised GD1, and may find the Explanatory Notes helpful. Comparing the new Notes with the previous draft may be of limited or no assistance.

Relying on Memorandums of Understanding

- 2.25** Some submissions suggested we should rely on Memorandums of Understanding with other regulators where there is already a requirement to report to another regulator.
- 2.26** While we accept that there may be overlap between GD1 and other regulators' reporting requirements, we do not support this suggestion.
- 2.27** The aim of GD1 is to ensure that we have an open and cooperative relationship with those we regulate. Our view is that relying on other regulators to tell us about relevant matters does not promote or foster such a relationship.

- 2.28** We consider it important for regulated parties to engage with us directly to ensure that we receive information that is relevant to us, whether it is new information or part of an ongoing dialogue. Where we are engaging with regulated parties on any matter, we expect that they will be proactive in communicating with us and forthcoming with the information that they provide. We consider that direct communication creates more opportunities for collaboration, and at a formative stage of a developing issue, so that we can consider what, if any, regulatory action is appropriate as early as possible.
- 2.29** We have a number of distinct functions, some concurrent and some not. As well as its powers and duties under FSBRA, we also have powers and duties under legislation including the PCIFRs, the PSRs 2017 and the Competition Act 1998 (CA98). We therefore have a broad remit, so it may not be immediately apparent to a different regulator that they have received information that may be relevant, or of interest, to us.
- 2.30** We also have our own set of statutory objectives that underpin everything we do. These are concerned with promoting innovation, promoting effective competition, and ensuring that payment systems are developed to promote service users' interests. As a result, our motivations for gathering information might not necessarily align with the motivations of other regulators', and we may require information for different purposes or have a different focus. This means there is a risk that relevant information may not be identified.
- 2.31** We consider it appropriate for the onus to be on regulated parties to assess what information they should send to us. We do not think this responsibility should be delegated to another regulator. Timely and accurate information is critical to our ability to achieve our statutory objectives and carry out our functions effectively. Reliance on a third party for the flow of information risks delays or incomplete information.
- 2.32** We consider that the additional burden to regulated parties in reporting to multiple regulators is minimal when compared to the benefit in us receiving this information.
- 2.33** We place great importance on our Memorandums of Understanding. The PSR will, of course, continue to collaborate with other regulators where appropriate to identify opportunities for information and knowledge sharing and cross-learning.

Consistency

- 2.34** We do not consider that it is appropriate to align our notification requirements for GD1 with the requirements of other regulators.
- 2.35** Regulators develop reporting requirements that are tailored to suit their own purposes. As noted in paragraph 2.30, the PSR is unique in its purpose and we may require information for different reasons to other regulators. And our broad remit (see paragraph 2.29) means we cover a wider range of regulated parties in payment systems than other regulators. For example, the FCA's remit does not cover PSOs, and the Bank of England's supervisory framework covers only some PSOs. GD1 covers all our regulated parties, including PSOs, card payment systems, credit institutions and other PSPs.
- 2.36** Some respondents suggested we should align with the breach reporting threshold in the PSRs 2017. The PSRs 2017 reporting thresholds were drafted with PSPs in mind, and will not be appropriate for other regulated parties, such as PSOs, in all circumstances.

2.37 In addition, the impact of some outages may not be immediate, and value-based percentages might be hard to determine. We therefore have not aligned with the PSRs 2017 reporting thresholds. However, if a regulated party considers that they need to report a matter to the FCA under the PSRs 2017, they should also consider whether they should report it to us under GD1.

2.38 If a participant considers they should report a matter under both GD1 and another regulator's reporting requirement, (such as the incident reporting requirement under the PSRs 2017, for example), they can report it to us using the same method and format as they use to report it to the other regulator, as long as this is an appropriate and effective way to communicate the relevant information to us.

2.39 Regulated parties need to assess for themselves whether an incident (or other information) may affect our objectives, and should therefore be reported to us under GD1. We have added additional guidance in the Explanatory Notes, to assist regulated parties in understanding what sort of situations we would reasonably expect notice of.

Materiality

2.40 Some submissions suggested that various examples provided in the Explanatory Notes should include materiality thresholds.

2.41 Broadly speaking, we consider that it is preferable for regulated parties to use their judgement about what situations they must notify us of under GD1, rather than us providing prescriptive guidance or requirements for every situation which might arise.

2.42 The text of GD1 itself only requires regulated parties to report anything which 'we would reasonably expect notice of'. This relates to information which affects our statutory objectives – to promote innovation and effective competition, and ensure that payment systems are developed to promote service users' interests. Regulated parties should consider our statutory objectives and published guidance when determining whether a matter is one which we would reasonably expect to be informed of. Materiality is part of this test, which requires a degree of judgment on the part of regulated parties.

2.43 The range of issues which should be reported under GD1 is broad. It is not realistic to provide a specific materiality threshold that would be relevant to all issues. The examples are designed to illustrate the sorts of matters that we would 'reasonably expect notice of'.

2.44 However, one of the examples we consulted on was 'Any failure in an indirect access provider's system which prevents payment service providers from making payments.' We agree that our example of reporting '*any* system failure' was too broad. We have amended it to narrow the description of the types of failures that PSOs or IAPs should report. This should make it clear that they only need to report failures that might affect our objectives. In particular, we need information relating to system failures to help us determine whether payment systems are being operated and developed in a way that promotes the interests of all the people and businesses that use them. As set out in paragraph 2.23, we need to have sufficient information, with supporting evidence where applicable, for us to understand the nature of the issue. This will help us to determine what, if any, further action to take, including whether to make further inquiries.

- 2.45** To help provide clarity on the types of situations we would expect regulated parties to notify us of, we have provided further information in the Explanatory Notes on our functions and objectives, and how these link to GD1. We have also amended the headings in GD1 to make it clearer who the examples are most likely to apply to. For example, where there is a failure of a payment system that has a substantially adverse impact on service-users, the PSO is responsible for notifying us about this. Similarly, we expect that the obligation to report changes to access criteria is most likely to apply to a PSO, IAP or credit institution. However, we do not rule out the possibility that, where any of the situations outlined in the examples applies to any other type of regulated party than that mentioned, there may be circumstances in which that party should notify us of the relevant situation under GD1.
- 2.46** Some respondents asked us to clarify that, where they provide notifications to the FCA under regulation 105 of the PSRs 2017, they do not also have to send us the same notifications under GD1. Regulation 105 requires credit institutions to provide duly motivated reasons to the FCA if they refuse or withdraw payment account services to a PSP.
- 2.47** We consider it unlikely that the information in these notifications would meet the GD1 reporting threshold, as it relates to refusal or withdrawal of access to payment account services for an individual PSP. The example in our Explanatory Notes relating to withdrawal or refusal of access is aimed at policy changes in terms of access. Under GD1, we would expect a credit institution to notify us directly if it changes its access criteria and therefore expects to withdraw access from a class of PSP. However, we would not usually expect a GD1 notification of an individual refusal or withdrawal.
- 2.48** In any event the FCA shares regulation 105 notifications with us, as co-competent regulator of regulation 105 of the PSRs 2017.
- 2.49** We have provided further information in the Explanatory Notes to help clarify the sorts of information we expect, as set out in paragraph 2.42.

Duplicative requirements and confusing wording

- 2.50** Several respondents noted that there was an element of duplication in GD1, in that some of the examples listed in the Explanatory Note appear to mirror situations where there is another reporting obligation to the PSR (for example, GD3).
- 2.51** We noted in our policy statement CP19/3 that 'Where there are express notification obligations applying either in statute or in other Directions, these notifications should be made under those obligations. A failure to notify the PSR under those obligations will constitute both a failure under GD1 and under the subject-specific obligation.'
- 2.52** Part of our intent is to ensure that there is an enforceable requirement in place to be open and cooperative when engaging with us at all times, including the circumstance in which a regulated party is required to report to us under another specific obligation (whether a direction or a legislative obligation). The purpose of GD1 is to help drive a 'no surprises culture' and to ensure there are no gaps in our regulatory requirements.
- 2.53** We have added information to the Explanatory Notes to clarify we do not expect regulated parties to notify us of an issue twice if it falls under GD1 and another obligation. A single notification is sufficient if it meets both requirements. Where GD1 and a different reporting

obligation are both engaged, such notifications should be made under the specific reporting obligation. We are not prescriptive as to how parties report GD1 matters to us, and they have discretion as to what is an appropriate and effective format.

2.54 We have also clarified that where GD1 is engaged and a different reporting obligation exists, but the reporting threshold for that competing obligation has not been reached, the obligation to report to the PSR under GD1 continues to apply.

2.55 We have also removed one example from the Explanatory Notes, as we consider that highlighting an example which is partially covered by GD2 and GD3 is unnecessary and may lead to confusion. Therefore, we have removed the following example:

'A payment system operator, indirect access provider or credit institution's intention to offer a new or materially different payment product or service.'

2.56 We have also grouped and re-worded the examples under changes to access for clarity and readability.

2.57 The examples are intended to capture policy changes, not changes to an individual customer's service (for example, a proposal to withdraw from offering services to a particular market, rather than withdrawing services from an individual customer). Our additional wording on the sort of information we expect generally under GD1 should clarify this.

Information disclosure – legal restrictions

2.58 In relation to whether GD1 requires reporting when another obligation prevents it, we consider that regulated parties must notify us of relevant information under GD1 unless they are prevented by law. For the avoidance of doubt, the fact that information is covered by a confidentiality clause in a contract or commercial confidentiality is not sufficient grounds to fail to report under GD1. There may be situations where something cannot legally be reported to us. Parties might be prevented from disclosing certain information to us by:

- a court order
- a statutory obligation which takes precedence (note: GDPR does not prevent notification where there is a regulatory requirement in place)
- an obligation from another regulator
- legal professional privilege
- or otherwise

2.59 However, we expect as much information as possible to be reported. For example, where another regulator imposes an obligation on a regulated party not to disclose the details of an investigation, we would still expect it to report the fact of the investigation to us. We have amended the Explanatory Notes to make this clearer.

Additional clarification on notifications

2.60 We propose to provide information on our website on how to make a notification under GD1, and who to send notifications to, for those regulated parties who do not have a known contact at the PSR. This will include information about how to report confidential information.

2.61 Where regulated parties already have regular communications with a particular PSR team, they should send GD1 notifications to that team. However, we recognise that not all regulated parties have an ongoing relationship with us.

2.62 If regulated parties do have any queries, or are in doubt as to whether they need to notify us of something under GD1, they are welcome to talk to us.

General Direction 2

Background

- 2.63** The new GD2 requires the operators of FPS, Bacs and C&CC to:
- have proportionate, objective and non-discriminatory (POND) access requirements
 - publicly disclose these requirements
 - notify us of updates and changes to their access requirements
 - provide an annual report containing access information

Stakeholder views

- 2.64** Only two stakeholders mentioned GD2 in their responses, supporting our proposed wording.
- 2.65** One stakeholder recommended that we provide additional clarity on whether changes in fees for direct access includes joining fees and/or ongoing transaction fees relating to the PSO's operating costs.

Our policy response and position

- 2.66** We have not made any substantive changes to the proposed wording of GD2 as a result of the consultation. We have made a few minor adjustments to wording and layout to improve readability.
- 2.67** For clarification, fees and charges includes all onboarding fees and ongoing transaction fees. GD2 compliance reporting is about both gaining access to and continuing participation in systems, and relevant information would include both types of costs.

General Direction 3

Background

- 2.68** The new GD3 requires the operators of Visa Europe, Mastercard, JCB International, UnionPay International, Diners Club International, American Express and LINK to:
- notify us of updates and changes to their access requirements
 - provide an annual report containing access information

Stakeholder views

- 2.69** Respondents that commented on GD3 supported our proposed changes.
- 2.70** One stakeholder requested clarity on what information should be included in the required report.
- 2.71** One stakeholder recommended that we provide additional clarity on whether changes in fees for direct access includes joining fees and/or ongoing transaction fees relating to the PSO's operating costs.

Our response

- 2.72** We have not made any substantive changes to the proposed wording of GD3 as a result of consultation. However, we have made minor edits to the wording and layout to improve readability. We address the points made in consultation below.
- 2.73** We provide a template for those responding under GD3. This template provides details on the information required, including how to submit the report.
- 2.74** Annual reports need to be submitted by 31 October, with the first report under the new GD3 required by 31 October 2020.
- 2.75** We have worked to simplify the template and will keep it under review from time to time.
- 2.76** For clarification, fees and charges includes all onboarding fees and ongoing transaction fees. GD3 compliance reporting is about both gaining access to and continuing participation in systems, and relevant information would include both types of costs.

General Direction 4

Background

- 2.77** The new GD4 requires the operators of FPS, Bacs, C&CC and LINK to:
- consider service-users and make transparent decisions
 - publish a forward-looking stakeholder report on engagement activities

Stakeholder views

- 2.78** Respondents that commented on GD4 supported our proposed changes.
- 2.79** One respondent requested flexibility about the timing of the report's publication, proposing a backstop deadline by which the report must be published each year. It considered that this would give the flexibility to release the report at a time when stakeholders are most likely to engage with it, such as at a stakeholder event.
- 2.80** One respondent proposed altering the wording covering communication by the PSO to service-users so that it is extended to cover non-written communication.

Our response

- 2.81** We have amended the wording of the new GD4 to allow flexibility in the release date of the stakeholder engagement report. While the report needs to cover the previous 12-month period, we support allowing some flexibility in the timing of the release.
- 2.82** The first report is required by 31 October 2020, with subsequent reports due by 31 October of the relevant year. The report must include service-user engagement to 30 September of the relevant year and cover the preceding 12 months. This allows flexibility for PSOs to release their report at a suitable time, while still providing certainty to stakeholders and ensuring the report is released at a similar time each year.
- 2.83** The Direction requires operators to communicate strategy and decisions to service users in writing. This is to ensure an easily accessible record of these decisions. However, this would not prevent a PSO also communicating decisions by other means, such as stakeholder events.

General Direction 5

Background

- 2.84** The new GD5 requires the operators of FPS, Bacs, C&CC and LINK to ensure that none of their directors are also directors of a central infrastructure provider to their system, or a provider participating in a tendering exercise to supply that system.

Stakeholder views

- 2.85** One respondent supported the intent of GD5, and the clarification we made to the wording.
- 2.86** No other consultation responses commented on GD5.

Our response

- 2.87** We have made some minor amendments to the new Direction to align with other Directions, including introducing a temporal element to the notification.

Specific Direction 1

Background

- 2.88** The new SD1 requires IAPs offering sponsor bank services to:
- publish information on sponsor bank services and indirect access offerings
 - provide receipt of application, indicative timetables and information on key milestones to PSPs following application

Stakeholder views

- 2.89** Respondents supported our changes to SD1, including expanding the scope and requiring sponsor banks to give applicants an indicative timeline following their application.
- 2.90** One respondent suggested that the steps following an application should be reordered. It suggested that the sponsor bank should inform the applicant of any issues in an application, and take reasonable steps to remedy them, before providing an indicative timeline. Similarly, another respondent supported acknowledging receipt of an application, but proposed that the sponsor bank should tell the applicant what further information it will require to take forward the application. The sponsor bank would only provide an indicative timeline after the applicant had supplied this information.
- 2.91** One respondent considered that we should go further and the Direction should be expanded to cover all entities providing non-agency indirect access.
- 2.92** One respondent did not consider the decision committees or nominated person involved in considering the application to be useful or relevant information to the applicant. Another considered that information about decision-making hierarchy is unlikely to be meaningful to the applicant.
- 2.93** One submission said it is unclear what 'remedying such issues' means.

Our policy response and position

Trigger for sponsor banks to provide a timeline to applicants

- 2.94** We accept that sponsor banks will need a certain level of information to initially assess an application and provide a timeline. They may need further information at a later stage, but this should not hold up provision of a timeline to the applicant. We do not support sponsor banks only providing an indicative timeline once the applicant has supplied all the information needed for the entire application process.
- 2.95** Where a sponsor bank receives an incomplete application, we expect it to provide the applicant with a timeline while helping the applicant to complete the application. However, the applicant must have made a reasonable attempt to fill in as much as it can. A very incomplete or skeleton application lacking key information would not trigger the requirement.
- 2.96** We expect sponsor banks to work with applicants to explain any missing information, clarify misunderstandings about what information is required and discuss any key issues. This is what we mean by 'remedying such issues'.

- 2.97** The initial timeline can be dependent on the applicant providing further information. The timeline can include guidelines for the applicant explaining when it needs to submit certain information.
- 2.98** The sponsor bank should amend the timeline if timescales change. It is only intended to be an indicative guide to the applicant, explaining how long their application is expected to take if they meet any requirements outlined.
- 2.99** If the applicant meets all the relevant deadlines, the sponsor bank would need a good reason to deviate from the timeline it had provided. It would have to explain the reason clearly to the applicant.
- 2.100** In relation to the ultimate decision-maker being provided in the timeline, we have heard concerns that applications (and subsequently decisions) weren't getting to the right decision-makers. Requiring a sponsor bank to outline the decision-maker (job position or committee) ultimately accountable for the final decision on an application should aid transparency. It may also help the applicant to know whether the decision will be taken by a committee that only meets on a periodic basis, or made on an ad hoc basis by a certain job role.
- 2.101** We do not expect the timeline to include the name of any individual person involved in making the decision, but rather which committee or job role will ultimately make the decision.
- 2.102** We have amended the new Direction to provide clarity on the process of providing a timeline.

Sponsor bank services

- 2.103** The Direction applies to all entities that provide agency indirect access. If a PSP provides agency indirect access via one entity, and non-agency indirect access via another entity, the controlling entity of that group will be caught by the definition of sponsor bank. Both the agency and non-agency indirect access services will be covered by SD1.
- 2.104** To avoid any confusion over the intended coverage of the Direction, we will amend the definition of sponsor bank to cover both PSPs that offer agency access, and entities in a group where at least one PSP within that group offers agency access. This ensures that where an IAP has separated their agency and non-agency services across different entities due to ring-fencing, the obligation falls on the controlling entity of the banking group.
- 2.105** SD1 also covers all accounts provided to PSPs that allow the transfer of funds on behalf of clients. This includes payment accounts under regulation 105 of the PSRs 2017, where the PSP also provides agency access.
- 2.106** To ensure the Direction is clear, we have added a definition of sponsor bank services to clarify that both agency indirect access and non-agency indirect access are covered by SD1. We have also included definitions of agency and non-agency indirect access, to make clear that non-agency access includes any account held by a PSP that allows transactions on behalf of customers, and is covered by SD1.
- 2.107** We have added wording reflecting these changes to the Explanatory Notes to the new SD1.

Transitional arrangements

Background

- 2.108** The draft Directions released for public consultation proposed a one-month transition period.

Stakeholder views

- 2.109** One respondent requested a three-month transition period for GD4. Another requested a three-month transition for SD1. One stakeholder requested a longer transition period in general.

Our policy response and position

- 2.110** There is a one-month transition for all the General Directions. This is because our new General Directions do not require the parties they cover to make significant system changes to comply with them.
- 2.111** There is a two-month transition period for SD1. We consider that this will allow time for sponsor banks to change their processes and procedures to ensure they are compliant with the new timeline obligation. We do not consider a longer period is necessary, given that we confirmed our policy intention to make these changes to SD1 in our Policy Statement (CP19/3) in March 2019.

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