

# **Specific direction 7 relating to Direct Debit Facilities Management: Switching Providers**

**January 2018**

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# 1 Recitals

## **Whereas:**

- 1.1** BPSL operates the Bacs Payment System according to the Bacs Payment System rules. Those rules include rules relating to the Direct Debit (DD) scheme, which is part of the Bacs Payment System, setting out how DDs should be managed and operated by relevant parties.
- 1.2** An organisation may wish to collect money from payers by DD but be unable, or not want, to gain sponsorship in its own right. Such organisations may therefore utilise the services of a Facilities Management provider ('FM provider') who collects and administers DD payments on its behalf, and in doing so become a client of the FM provider ('FM client').
- 1.3** A concern was raised to us that under the current DD rules, where an FM client wishes to switch FM provider, the incumbent FM provider can increase the costs and disruption associated with switching, by refusing its consent to use the Bulk Change Process to assist a switch. This forces FM clients to contact all payers and ask each one to provide a new DD instruction (DDI) which is slow, costly and likely to cause the most disruption to the incoming FM provider, the FM client and the FM client's payers.
- 1.4** This concern, together with other evidence collected by the Payment Systems Regulator including its own online survey of FM providers prompted the PSR to publish its consultation CP17/1 in August 2017. In this consultation the PSR consulted on potential solutions to the concerns raised and three provisional conclusions it had reached.
- 1.5** On 13 December 2017 the PSR published its decision on its provisional conclusions and proposals to change the Direct Debit rules relating to the switching of FM providers.

## 2 Powers exercised and purpose

- 2.1** The Payment Systems Regulator makes this specific direction in accordance with section 54(2)(a) (Directions) of the Act. In accordance with section 54(3)(c) of the Act this specific direction applies to persons of a specified description.
- 2.2** The Payment Systems Regulator has had regard in particular to the following provisions of the Act:
- a. sections 49 to 53 (General duties of regulator)
  - b. section 62(2)(a) (Duty to consider exercise of powers under Competition Act 1998)
- 2.3** The Payment Systems Regulator makes this specific direction for the reasons set out in the decision document PS17/3.
- 2.4** The Purpose of this specific direction is to direct BPSL to:
- a) Provide a complete description of a solution that will ensure that:
    - i. An incoming Commercial FM Provider that wishes to do so is not prevented by an incumbent Commercial FM Provider from using the Bulk Change Process to help an FM client wishing to switch to it from the incumbent Commercial FM Provider, and
    - ii. An FM client becoming a Bacs Service User or wishing to switch to a new Facilities Management provider (other than a Commercial FM Provider) is not prevented by an incumbent Commercial FM Provider from using the Bulk Change Process should it wish to do so to help it switch away from the incumbent Commercial FM Provider.
  - b) Provide a project plan and timeline to achieve that outcome.
  - c) Deliver the solution in accordance with the project plan timeline.

## 3 Direction

### **NOW the PSR gives the following specific direction to BPSL:**

- 3.1** Within twenty Working Days of the commencement date (see paragraph 5.1), BPSL shall propose a project plan and timetable (collectively 'the proposed plan') to the PSR for it to approve. The proposed plan shall include:
- a) a timeline with milestones for the introduction of the solution described in 2.4(a)
  - b) specific milestones for when Commercial FM Providers are required to comply with:
    - i. the solution described in 2.4(a)
    - ii. any specific service levels applicable to the solution
  - c) details of a mechanism for monitoring compliance on an ongoing basis
  - d) a complete description of the solution. The description will contain:
    - i. an explanation of how it satisfies the Purpose
    - ii. a system of enforcement and sanctions
    - iii. a description of any service levels
- 3.2** The PSR may amend the proposed project plan prior to approving it.

## 4 Application

- 4.1** This specific direction applies to BPSL.

## 5 Commencement

- 5.1** This specific direction comes into force on 30 January 2018.
- 5.2** This specific direction shall continue in force until such time as it is varied or revoked by the Payment Systems Regulator.

## 6 Citation

- 6.1 This specific direction may be cited as specific direction 7 (System rules: Bacs).

## 7 Interpretation

- 7.1 The headings and titles used in this specific direction are for convenience and have no legal effect.
- 7.2 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.
- 7.3 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.
- 7.4 In this specific direction:

**Act** means the Financial Services (Banking Reform) Act 2013

**Bacs Payment System** means the Bacs *regulated payment system* designated by HM Treasury under section 43 of the Act in March 2015

**Bacs Service User** means a company, group of companies, unincorporated association or other organisation that is sponsored to use the Direct Debit scheme

**BPSL** means Bacs Payment Schemes Limited, the Operator of the Bacs Payment System

**Bulk Change Process** means the rules and processes a Bacs Service User must follow when applying bulk amendments to DDIs, already held with paying banks, in respect of a change of name, legal status, service user number or service user reference

**Commercial FM Provider** means a Bacs Service User who is also a PSP (Payment Service Provider) as defined specifically by section 42 specifically of the Act and, acting in the normal course of business, provides DD Facilities Management services to other organisation(s) who are not part of the same corporate or business entity

**Facilities Management** means a Bacs Service User taking responsibility for the collection or administration of Direct Debits on behalf of another organisation, not necessarily being a Bacs Service User in its own right

**FM client** means – in the context of this specific direction - a person or organisation using, or seeking to use, the services of a Facilities Management provider

**Operator** has the meaning given by section 42(3) of the *Act*

**Payment Systems Regulator** or **PSR** means the body corporate established under Part 5 of the *Act*

**Purpose** means the specified purpose to be achieved as set out in paragraph 2.4