

Policy statement

Card-acquiring market remedies: change to list of directed legal entities

Revisions to Specific
Directions 14, 15 and 16

May 2024

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1 Executive summary

Card payments are critical to the smooth running of the UK economy. They are a popular way for people to pay for goods and services. For businesses to accept card payments they need to buy card-acquiring services.

Our review of the card-acquiring market found that the supply of card-acquiring services does not work well for merchants with annual card turnovers of up to £50 million. These merchants could make savings by shopping around or negotiating with their current supplier, but many do not.

In 2022 we issued Specific Directions 14, 15 and 16 in 2022 to the 14 most significant providers of card-acquiring services to improve services and choice for businesses receiving card payments.

Issuing these Directions was a crucial step in giving greater transparency to UK businesses in what can be a complicated area. Businesses can find more competitive deals and prevent them from being tied into lengthy contracts for their card readers.

In 2023 we identified that we might need to make changes to these directions, and accordingly between 11 January and 9 February 2024 we ran a consultation on these proposed changes.

This consultation arose because:

- Several directed providers had notified us of changes to the legal entities that supply services to UK customers.
- We wanted to introduce a more efficient mechanism to capture any future changes to the legal entities servicing UK customers listed in the directions.
- We had obtained market evidence that Checkout Ltd, based on its share of card transactions acquired at UK outlets, now falls within the set of most significant providers of card-acquiring services.

In the consultation we asked:

- Do you have any comments on our proposed amendments to the directions, including the proposed updates to the lists of directed payment services providers (PSPs)?
 - Do you agree with the new proposed mechanism for ensuring continuity of obligations in the event of a transfer of a relevant business, and consequent to this, updating the list of payment service providers (PSPs) subject to Specific Directions 14, 15 and 16? Do you have any comments on how we propose it should work? Do you have any comments on the meaning or application of the term 'transfer', and the clarity of the trigger event which would result in the requirement for notification to be made to the PSR?
 - Do you have any comments on our proposal to direct Checkout Ltd?
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Following our analysis of the responses, we are confirming that we will:

- update the legal entities; and
- introduce the new mechanism for the transfer of legal entities.

We have decided not to direct Checkout Ltd at this time. We will keep the list of directed companies under review.

The details of our decision are covered in greater detail below.

2 Background

- 2.1** The aim of CAMR was to consider whether the supply of card-acquiring services was working well for merchants, and ultimately for consumers. We heard concerns that providers might not be passing on savings they made from the interchange fee caps introduced by the Interchange Fee Regulation (IFR).
- 2.2** There were also concerns about a lack of transparency around the fees merchants pay to accept card payments, and about merchants' difficulties in comparing and switching providers. We published our final report on our findings in November 2021.
- 2.3** In October 2022, we published our final decision confirming the changes we are making to improve card services and choice for businesses, and Specific Directions 14, 15 and 16 were directed.
- 2.4** We issued the three directions to the 14 most significant providers of card-acquiring services, which meant that around 95% of transactions were accounted for. The 14 providers were:
1. Adyen UK Limited
 2. Barclays Bank PLC
 3. Chase Paymentech Europe Limited
 4. Elavon Financial Services DAC
 5. EVO Payments International GmbH, Branch UK
 6. First Data Europe Limited
 7. First Merchant Processing (Ireland) DAC
 8. GPUK LLP
 9. Lloyds Bank plc
 10. PayPal (Europe) Sarl et Cie SCA
 11. Square UK (to be referred to in the directions following variation as Squareup Europe Ltd)
 12. Stripe Payments UK Ltd
 13. SumUp Payments Limited
 14. Worldpay (UK) Limited
- 2.5** Since our final decision and the directions were published in October 2022, some directed providers that previously operated from an EU member state under the temporary permissions regime have now transferred responsibility to a UK-registered company.
- 2.6** In other cases, certain directed parties notified us that the relevant legal entity within their group has changed for reasons such as company restructuring, or simply that the details listed for them were incorrect.

- 2.7** In our final decision we stated that we would keep the list of directed companies under review, and could extend the mandate if necessary by directing Mastercard and Visa to require all acquirers who are members of their schemes to adopt the remedies.
- 2.8** We obtained market evidence that Checkout Ltd, based on its share of card transactions acquired at UK outlets, now falls within the set of most significant providers of card-acquiring services.
- 2.9** The responses to our consultation regarding changes to legal entities proved uncontroversial and we will proceed to amend the three directions accordingly.
- 2.10** The responses to our consultation regarding the proposed mechanism to automatically move the obligations of Specific Directions 14,15 and 16 where the relevant business (i.e. the business of a provider that caused it to be a directed party) was broadly supported.
- 2.11** We received a mixed response to our proposal to include Checkout Ltd and to our methodology for identifying the largest providers captured by our directions.
- 2.12** We expand on our decisions following the consultation in the remaining chapter below.

3 Changes to the legal entities

As our consultation noted, six of the fourteen firms currently directed under Specific Directions 14, 15 and 16 are not described by their correct legal name. This should be remedied to ensure legal certainty.

Change to legal entities listed in the directions

3.1 We confirm the changes to the current list of directed legal entities are summarised in Table 1 below:

Table 1: Confirmed changes to the current list of directed PSPs under Specific Directions 14, 15 and 16

Currently Directed Providers to be amended as a result of change to business entity under Specific Directions 14, 15 and 16	Providers to be included under Specific Directions 14, 15 and 16
Adyen UK Limited	Adyen N.V
Chase Paymentech Europe Limited	Chase Paymentech Europe Limited JPMorgan Chase Bank, National Association
EVO Payments International GmbH, Branch UK	EVO Payments UK Ltd
First Merchant Processing (Ireland) DAC	First Merchant Processing (UK) Limited
PayPal (Europe) Sarl et Cie SCA	PayPal UK Ltd
Square UK	Squareup Europe Limited

Variation to updating legal entities in Specific Directions 14, 15 and 16 in the future

3.2 We proposed a mechanism to automatically move the obligations of Specific Directions 14, 15 and 16 where the relevant business (i.e. the business of a PSP that caused it to be a directed party) moved to another PSP (whether as part of a reorganisation of legal entities within the same group or a transfer to a third-party PSP). The rationale behind this decision was to provide a mechanism for capturing new entities without having to vary the existing directions.

- 3.3** The consultation responses received were broadly supportive of the above approach.
- 3.4** Checkout Ltd. raised concern about the nature of the definition of ‘transfer’ and how it would take into account ‘...a small acquirer with a portfolio of non-relevant businesses will be in scope of the SDs if they choose to onboard even one in scope merchant. Without further thresholds and controls on admissibility of transferring merchants, would be a disproportionate burden on transferee.’
- 3.5** We do not propose to make a change as a result of this comment. The mechanism we propose provides appropriate flexibility. It includes an ability for the PSR to determine in any particular case that the transferor or transferee is not (despite the general rule) to be, or remain, directed.
- 3.6** JPMorgan Chase recommended that we review the list and changing market conditions to independently assess if any new participants should be added. For ease and consistency of process, they suggested we could develop a notification template for participants to leverage to notify of any transfers. They also said the glossary terms could be updated to include definition of the term ‘transfer’ in the context of the specific directions. While we don’t consider these comments require changes to our direction, we do see sense in them and will consider their implementation going forward.
- 3.7** We do intend to publish a list of the directed parties on the PSR website at the same time as the draft variation direction is published and will keep it up to date.

4 The inclusion of Checkout Ltd

We obtained market evidence that Checkout Ltd, based on its share of card transactions acquired at UK outlets, now falls within the set of most significant providers of card-acquiring services.

Given the feedback we received, we decided not to direct Checkout Ltd at this time. We will keep the list of directed companies under review.

Reasons for considering the inclusion of Checkout Ltd

- 4.1** The 14 most significant providers of card acquiring services meant that around 95% of transactions were accounted for.¹
- 4.2** We believed that giving specific directions to these providers was the most proportionate and targeted approach to our remedies and that it would address the harms we have identified effectively in a timely manner.
- 4.3** The methodology used to identify the 14 original directed providers used data on volume of transactions, value of transactions, and number of merchants supplied.
- 4.4** In our Final Decision we stated that we would keep the companies directed under review and could extend the mandate by directing the card schemes, Mastercard and Visa, to mandate all acquirers who are members of their schemes to adopt the remedies, if necessary.
- 4.5** We have obtained market evidence that based on its share of card transactions acquired at UK outlets, Checkout Ltd. has a market share at least as large as the smallest currently directed acquirer based on:
1. the value of Mastercard and Visa card transactions for the entire calendar year of 2021; and
 2. the value and volume of Mastercard card transactions during January-August 2022 and Visa transactions during January to September 2022.
- 4.6** We received a mixed response to our proposal to include Checkout Ltd and to our methodology for identifying the largest providers.
- 4.7** Responses to our consultation argued that greater transparency is required around the methodology used to determine whether a provider should be directed under Specific Directions 14, 15 and 16.

1 Based on card transactions acquired at UK outlets by volume (that is, number) and value of transactions.

- 4.8** Checkout Ltd. argued that more details were required about our methodology for their inclusion and how it compared to the methodology used to designate the original 14 providers.
- 4.9** Both Elavon and UK Finance argued that instead of our current approach to directing a finite list of parties we should capture the whole market instead.
- 4.10** On the basis of the feedback received on the methodology, we have decided not to include Checkout Ltd at this time. In reaching this decision, we also took into account that the data on value and volume of card transactions covering part of 2022 was consistent with there being market developments that may not only have affected Checkout Ltd but other providers too. We will therefore keep the list of directed companies under review. The CAMR specific directions include provision for their review three years after the date on which they came into force in 2023.

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