

Specific Direction 14/15/16a

Specific Direction 14/15/16a
varying Specific Directions 14, 15 and 16
(card-acquiring services)

May 2024

Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services)

1 Recitals

Whereas:

- 1.1 The list of directed PSPs¹ in Specific Directions 14, 15 and 16 requires updating, including to reflect transfers of business.
- 1.2 There should be a process for a payment service provider to which relevant business is transferred to become automatically a directed PSP. This will remove uncertainty and ensure continuity (while avoiding the need for a direction to be given to achieve the same outcome).

2 Powers exercised and purpose

- 2.1 Visa Europe and Mastercard are payment systems designated by the Treasury under section 43 of the Financial Services (Banking Reform) Act 2013 (the Act) for the purposes of Part 5 of the Act.
- 2.2 The Payment Systems Regulator makes this direction in accordance with sections 54(1) and (3) (Regulatory and competition functions – directions) of the Act. In accordance with section 54(3)(c), this direction applies to specified persons and persons of a specific description.
- 2.3 In making its decision to use its section 54 powers, the Payment Systems Regulator had regard to section 62(2)(a) (Duty to consider exercise of powers under the Competition Act 1998) of the Act.
- 2.4 This direction is given to vary Specific Directions 14, 15 and 16 for the purposes described in the additional recitals inserted into those directions by Section 3 of this direction.

¹ For the definition of ‘directed PSPs’ see the ‘Key Definitions’ section (Section 4) in each of Specific Directions 14, 15 and 16.

Direction

NOW the Payment Systems Regulator gives the following direction to the payment service providers referred to in paragraph 7.1:

3 Additional recitals

3.1 In each of Specific Directions 14, 15 and 16, at the end of Section 1 (recitals), insert (using the appropriate paragraph number):

‘This direction was varied by Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services) to update the list of directed PSPs and to introduce a mechanism for obligations to be placed on PSPs taking on relevant business.’

4 Change to lists of directed PSPs

4.1 In each of Specific Directions 14, 15 and 16, in the list of directed PSPs, omit:

Adyen UK Limited

EVO Payments International GmbH, Branch UK

First Merchant Processing (Ireland) DAC

PayPal (Europe) Sarl et Cie SCA

Square UK

4.2 In each of Specific Directions 14, 15 and 16, in the list of directed PSPs, insert at the appropriate place (determined alphabetically):

Adyen N.V.

EVO Payments UK Ltd

First Merchant Processing (UK) Limited

JPMorgan Chase Bank, National Association

PayPal UK Ltd

Squareup Europe Ltd

(and in consequence of this paragraph and paragraph 4.1, in paragraph 3.1 of each of Specific Directions 14, 15 and 16, for ‘14’, substitute ‘15’)

5 Transfer of relevant business

5.1 In Section 6 of each of Specific Directions 14, 15 and 16, after paragraph 6.1, insert:

- 6.2** Subject to paragraph 6.11, where a directed PSP ('the transferor') transfers relevant business to another person, that person ('the transferee') is, from the date of transfer, a directed PSP.
- 6.3** This applies whether or not the transfer is to a group undertaking (which has the same meaning as in section 1161(5) of the Companies Act 2006).
- 6.4** Subject to paragraphs 6.10 and 6.11, despite the transfer, the transferor remains a directed PSP.
- 6.5** The transferor must give advance notice in writing to the PSR of the proposed transfer. That notice must include the anticipated date of the transfer, the name of the proposed transferee and their contact details, confirmation of whether or not the transferee is a group undertaking, the transferor's submission on whether paragraph 6.10 will apply and a description of the relevant business being transferred. The PSR may require further information to be provided about the transfer (this is without prejudice to any other power the PSR has to require information to be provided).
- 6.6** The notification must be given by the transferor as soon as reasonably practicable after a date for transfer has been set, and in any event no later than 28 days before the date of the anticipated transfer.
- 6.7** If, following the notification, there is a material change to the matters set out in the notice (for example that the transfer is no longer happening or it is to happen on a different date), the transferor must notify the PSR in writing of the change as soon as reasonably practicable.
- 6.8** Immediately following the transfer, the transferor and the transferee must notify the PSR in writing that the transfer has been completed. That notification may be given jointly or individually.
- 6.9** Where the transfer of relevant business is to more than one person, each person to which relevant business is transferred is a transferee for the purposes of this direction and consequently the PSR will assess each transferee separately for the purposes of paragraph 6.11.
- 6.10** Where the PSR is satisfied that, by virtue of the transfer, the transferor is no longer a PSP in a relevant regulated payment system (those systems being the Visa Europe and Mastercard payment systems), it will give notice in writing to the transferor that it is no longer a directed PSP.

6.11 The PSR may decide that a transferee or a transferor is not, despite paragraph 6.2 or 6.4, to be, or remain, a directed PSP. If it does so, it will provide a written notice to the transferee or transferor (as appropriate) setting out that decision and, in doing so, specifying when its decision will come into effect (which may be on a specified date or by reference to an event (such as the transfer)). The decision may be stated to be contingent on the transfer happening (including happening in a particular way or in relation to particular relevant business). The PSR's notice may be given at any time after the notification mentioned in paragraph 6.5 has been given to the PSR, including after the transfer has taken place.

6.12 The PSR shall maintain a schedule of directed PSPs on its website.'

5.2 In consequence of the variation made by paragraph 5.1, at the end of Section 4 of each of Specific Directions 14, 15 and 16, insert (using the appropriate paragraph number):

'**Relevant business** means activity in respect of which Section 3 of this direction imposes obligations.'

6 Correcting obvious errors

6.1 In paragraph 3.24 of Specific Direction 14, omit 'fashion'.

6.2 In Specific Direction 15

in paragraph 3.10, for 'paragraph 3.10', substitute 'paragraph 3.9'

in paragraph 3.11, for 'paragraph 3.12(a) or (b)', substitute 'paragraph 3.11(a) or (b)'

in paragraph 4.9, for 'X1', substitute '14'

7 Application

7.1 This specific direction applies to any payment service provider that is a directed PSP within the meaning of Specific Directions 14, 15 or 16 (as varied by this direction).

8 Commencement and duration

8.1 This direction comes into force on 12 June 2024.

9 Citation

9.1 This direction may be cited as Specific Direction 14/15/16a: varying Specific Directions 14, 15 and 16 (card-acquiring services).

10 Interpretation

- 10.1** The headings and titles used in this direction are for convenience and have no legal effect.
- 10.2** The Interpretation Act 1978 applies to this direction as if it were an Act of Parliament, except where words and expressions are expressly defined.
- 10.3** References to any statute or statutory provisions must be construed as references to that statute or statutory provision as amended, re-enacted or modified, whether by statute or otherwise.
- 10.4** In this direction, the word ‘including’ shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word ‘include’ and its derivatives shall be construed accordingly.

Made on 29 May 2024

Chris Hemsley
Managing Director
Payment Systems Regulator

© The Payment Systems Regulator Limited 2024
12 Endeavour Square
London E20 1JN
Telephone: 0300 456 3677
Website: www.psr.org.uk

All rights reserved