

Call for Input: Card Payment Systems

June 2015

PSR CFI15/1



The Payment Systems Regulator is the economic regulator for the £75 trillion payment systems industry in the UK. Our purpose is to make payment systems work well for those that use them.

We have three statutory objectives that underpin everything we do. In summary these are:

- to ensure that payment systems are operated and developed in a way that considers and promotes the interests of all the organisations and consumers that use payment systems and the services they provide;
- to promote effective competition in the markets for payment systems and services - between operators, payment service providers (PSPs) and infrastructure providers; and
- to promote the development of and innovation in payment systems, in particular the infrastructure used to operate those systems.

We are asking for comments on this Call for input by 5pm, Friday 31 July 2015.
You can send your comments and responses to our questions by email to cards@psr.org.uk.
You can also respond in writing to the address below (although we ask all respondents to also provide electronic Word and PDF versions of their response).

Payment Systems Regulator
Cards Programme Team
25 The North Colonnade
Canary Wharf
London E14 5HS

Please see our approach to disclosure of information as set out on page 14 of this Call for input. Stakeholders who wish to claim commercial confidentiality over specific items in their response should make sure to fill in the cover sheet accordingly, and to identify those specific items which they claim to be commercially confidential by highlighting them in yellow.

You can download this Call for input and our questions from our website: www.psr.org.uk

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1

Introduction

- 1.1 In March 2015, the PSR published its approach to regulating the payment systems industry.¹ In our Policy Statement, we confirmed how we would advance our vision for payment systems that are accessible, reliable, secure and value for money once we became operational on 1 April 2015. Alongside the Policy Statement we also published an Indicative Work Programme which set out a number of key pieces of work we would begin in 2015/2016;² one of those programmes is focused on card payment systems.
- 1.2 Our interest in payment cards is not new. In our Consultation Paper on a new regulatory framework for payment systems in the UK,³ we noted that some of the concerns around interbank payment systems (i.e. indirect access, transparency, governance and how service-users are represented in decision making) are also relevant to card payment systems. These are issues that we want to explore further.
- 1.3 In addition, new legislation from Europe, most notably the new Interchange Fee Regulation (IFR), is bringing major changes to the way UK card payment systems operate. This legislation will mean new rules and caps have to be implemented in the UK for interchange fees.
- 1.4 HM Treasury is responsible for designating one or more UK competent authorities under the IFR. We expect the PSR to be designated as a competent authority and so, to shape our regulatory approach, we are seeking views on how stakeholders expect to respond to the legislation, as well as other trends and issues within card payment systems.
- 1.5 This programme of work will help us understand what we as a regulator need to do, how, and by when. In summary, the purpose of the programme of work is to:
- develop our understanding of card systems fees and how they may be affected by reactions to the IFR;
 - build our understanding of the provisions on business rules and functional separation included in the IFR and their potential impacts;
 - develop our policy for monitoring compliance with and enforcing the IFR, subject to PSR being designated as a competent authority; and
 - gather information on other possible concerns parties may have relating to indirect access, transparency of information and the decision making process, governance and how service-users' interests are represented in decision making in card systems.
- 1.6 This document is the start of the process. We want to use our Call for input to gather the views of our stakeholders and use those to stimulate further discussion.
- 1.7 Section 2 of the document provides some background to the issues that we are looking into. Section 3 covers what our programme of work will include, the specific issues we are looking at, and the questions to which we would like you to respond. Section 4 explains how you can respond and help shape our approach. There are three annexes. The first provides the full list of questions for which we are seeking responses; the second contains a glossary of terms; and the third contains a cover sheet for responses to this Call for input.
- 1.8 This Call for input is open for responses until 31 July 2015. Details on how to respond are on page 14.

¹ Policy Statement PS15/1, www.psr.org.uk/psr-publications/policy-statements/psr-ps-15.1

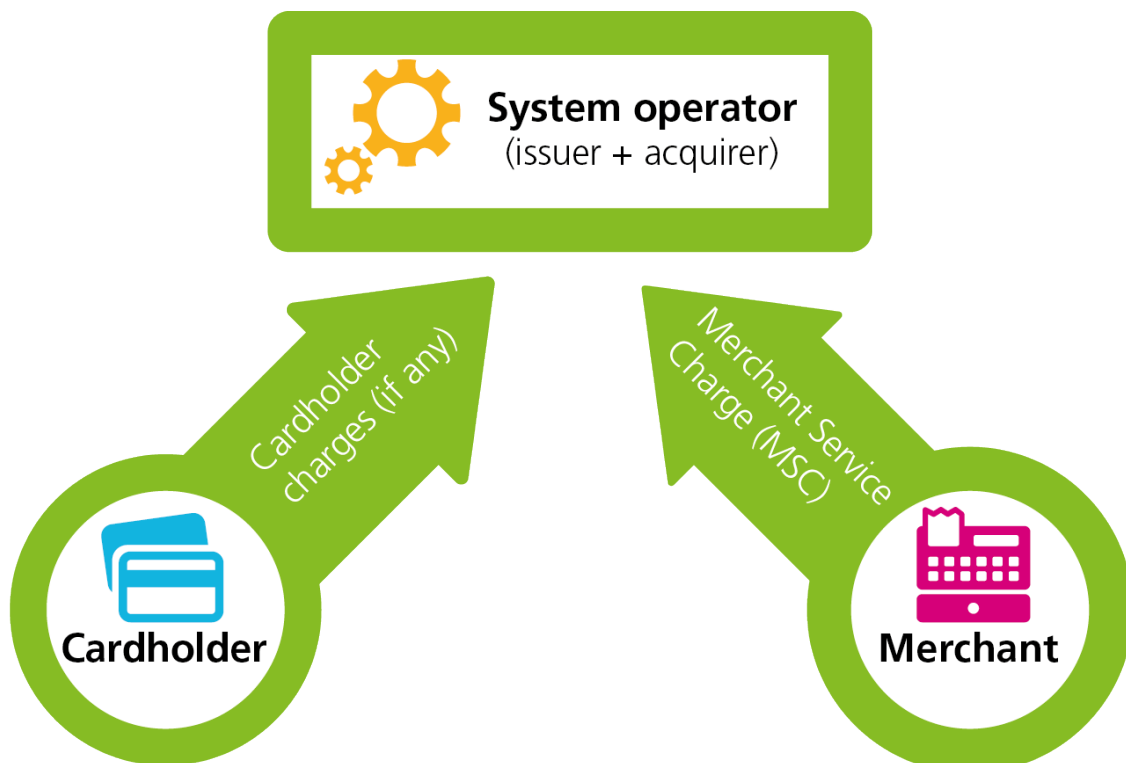
² Indicative Policy Work Programme, www.psr.org.uk/psr-publications/annual-plans-and-reports/policy-work-programme-2015-16

³ Consultation Paper CP14/1, www.psr.org.uk/psr-cp-141-new-regulatory-framework-payment-systems-uk

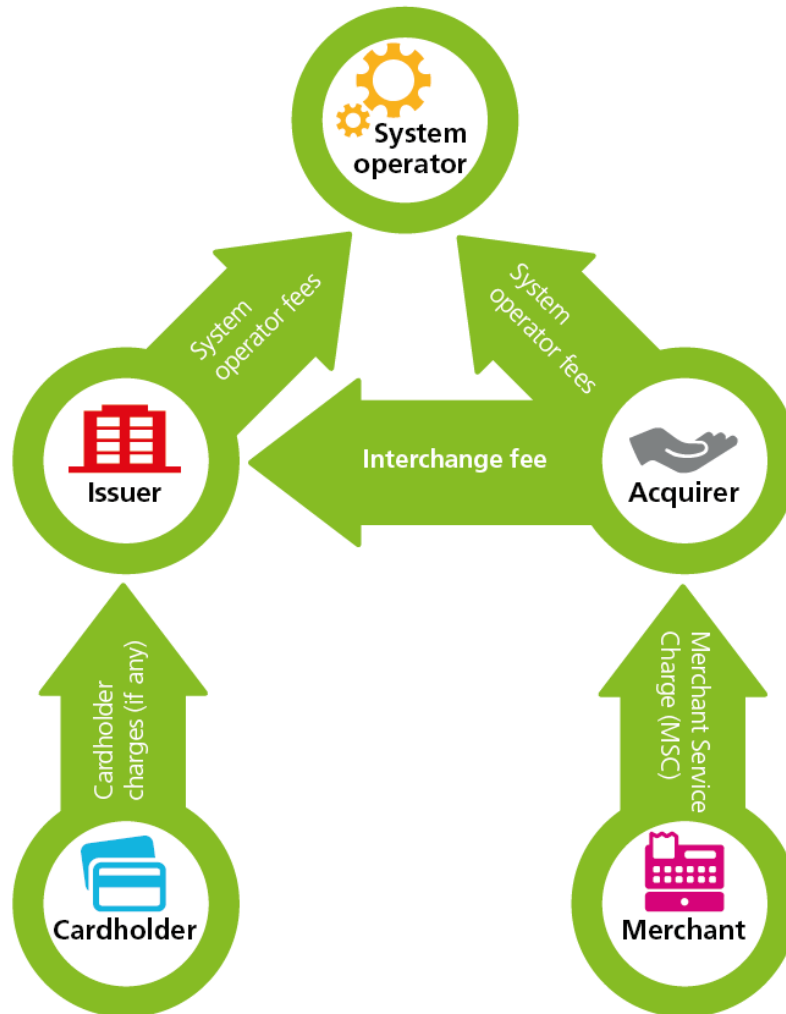
2 Background

Card payment systems

- 2.1 Card payment systems enable people to make payments using debit and credit cards. These systems are administered by 'card system operators'. The cardholder obtains their credit or debit card from a card 'issuer', while an 'acquirer' processes transactions on behalf of the 'merchant', such as a shop or restaurant.
- 2.2 For a card system to be successful, it must recruit both cardholders and merchants. A card system will not succeed if, say, all merchants accept the card but nobody holds that card, and nor will it succeed if lots of people hold specific cards but no merchants accept those cards.
- 2.3 Card system operators may choose to carry out those recruitment activities themselves, or may delegate those tasks to third parties. This choice over recruitment activities leads to two types of card systems: 'three-party' systems and 'four-party' systems.
- 2.4 In three-party systems, such as the 'proprietary' system of American Express, the issuer and acquirer are the same. The structure of a pure three-party system is shown in the figure below.



- 2.5 The structure of a four-party card system is more complex, as illustrated in the figure below. One of the main differences to a three-party card system is that the issuer and acquirer are different entities.



- 2.6 In a four-party system, such as those operated by MasterCard and Visa, the card system operator is not responsible for recruiting merchants or consumers, and does not directly interact with them. Instead, the operator tasks (third party) acquirers with recruiting merchants and managing those relationships, while (third party) issuers are tasked with recruiting cardholders and managing those relationships.
- 2.7 One of the distinguishing features of a four-party system is the interchange fee. These fees are paid to issuers by acquirers and have traditionally been agreed by system participants on a multilateral basis.
- 2.8 In contrast, in a three-party system there is no interchange fee: the issuer (having the relationship with the cardholder) and the acquirer (having the relationship with the merchant) are the same entity. However, three-party systems may license other payment service providers (PSPs) to issue cards or to acquire cards. Where they do so, the IFR treats the system as a four-party system. The system operator may agree to pay licensee issuers a fee (i.e. the licensee may be remunerated for its issuing activity by the system operator, whereas in a four-party system, the issuer's issuing activity may be remunerated through the payment of an interchange fee by the acquirer).

Interchange fees

- 2.9 Interchange fees are the fees paid to a cardholder's PSP, from the merchant's acquirer, every time the card is used within the four-party MasterCard and Visa systems. For example: if Mr X buys a pair of trousers from a clothes shop using his debit or credit card, the clothes shop's acquirer will pay Mr X's bank / card issuer a fee.
- 2.10 Interchange fees have been the subject of competition law investigations and regulatory scrutiny at European and national levels for many years (domestically and internationally). In the UK, the CMA closed its investigations into MasterCard and Visa's domestic interchange fee arrangements on 6 May 2015 on the grounds of administrative priorities in light of the IFR soon coming into force.⁴
- 2.11 Much has been written about interchange fees, both for and against, and about how the fees are set. A commonly cited justification for interchange fees is that they help to balance the demand on both sides of the 'two-sided network' (that is, the network which brings together those wishing to make payments with those wishing to receive payments) in a way that leads to the greatest uptake and use of the payment system. On the other hand, longstanding concerns have been expressed about whether interchange fees set in line with such commercial incentives also serve the public interest.
- 2.12 Interchange fees are passed on to merchants through the Merchant Service Charges (MSCs) that merchants pay to their acquirers. Interchange is often the single largest component of the MSC. Transaction costs faced by all merchants, including the MSC, will ultimately affect the prices paid by consumers. Where a merchant charges different prices depending on the means of payment, cardholders may face a surcharge. Where a merchant charges uniform prices, the costs will be borne by all consumers, whatever their chosen means of payment.
- 2.13 Some merchants pay a 'blended' MSC which does not separate out the interchange fee component of the overall MSC. Competition between acquirers, which can be affected by transparency of interchange fees, will affect the speed and extent to which changes in interchange fees are passed through to merchants.
- 2.14 The IFR, described below, will affect interchange fee arrangements in the UK for both credit and debit cards. The default interchange fee cap set in the IFR is 0.2% of the value of the transaction for debit cards and 0.3% for credit cards.

Interchange Fee Regulation

- 2.15 On 29 April 2015 the European Parliament and the Council of the European Union adopted the IFR, which was published in the Official Journal of the European Union on 19 May 2015.⁵ Provisions within the IFR take effect on different dates, notably the introduction of interchange fee caps on 9 December 2015 and the majority of provisions relating to business rules on 9 June 2016.

⁴ For more information on the CMA's investigations, see <https://www.gov.uk/cma-cases/investigation-into-interchange-fees-mastercard-visa-mifs> and in particular <https://www.gov.uk/cma-cases/investigation-into-interchange-fees-mastercard-visa-mifs#decision-to-close-the-investigations>.

⁵ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.123.01.0001.01.ENG

2.16 The key business rule provisions contained in the IFR are summarised in the table below.

IFR rule	Details of key changes resulting from the IFR
Licensing (Article 6)	<ul style="list-style-type: none"> Any territorial restrictions within the EU or rules with an equivalent effect shall be prohibited.
Separation of payment card scheme and processing entities ('functional separation') (Article 7)	<ul style="list-style-type: none"> Prices for scheme and processing activities shall not be presented in a bundled manner and the activities should not be cross-subsidised. Payment card schemes and processors shall not discriminate between their own subsidiaries / shareholders and users of payment systems / other contractual partners. Payment card schemes shall allow for the possibility that authorisation and clearing messages of single card-based payment transactions be separated and processed by different entities. Processing entities shall ensure technical interoperability of their systems and the European Banking Authority is to develop draft technical standards.
Co-badging (Article 8)	<ul style="list-style-type: none"> Issuers shall be allowed to include two or more payment brands or payment applications of the same brand on a single card.
Unblending (Article 9)	<ul style="list-style-type: none"> Acquirers shall offer and charge payees merchant service charges individually specified for different categories and different brands of payment cards unless the merchant requests a blended rate (i.e. a flat rate-per transaction to be paid irrespective of the actual cost of a given payment card) in writing.
Honour All Cards Rule (Article 10)	<ul style="list-style-type: none"> The 'Honour all Cards' rule currently requires merchants to accept all the cards of the same brand, irrespective of the different costs of these cards (the 'Honour all Products' element) and irrespective of the individual issuing bank which has issued the card (the 'Honour all Issuers' element). The IFR will remove the Honour All Products aspect of the Honour All Cards Rule.
Electronically identifiable cards (Article 10)	<ul style="list-style-type: none"> Issuing PSPs shall ensure that their payment instruments are electronically identifiable in a transaction and at the time of the new issuance. They must also be visually identifiable, enabling payees to identify unequivocally which brands and categories of prepaid cards, debit cards, credit cards, universal cards or commercial cards are chosen by the payer.
Merchant steering (Article 11)	<ul style="list-style-type: none"> Any rules that restrict merchants' ability to steer consumers to lower cost payment methods must be removed.
Information to payees (Article 12)	<ul style="list-style-type: none"> After the execution of an individual card-based transaction, the payee's PSP shall provide the payee with: <ol style="list-style-type: none"> a transaction reference; a transaction amount in the currency of payees account; and the amount of any transaction charges, indicating separately the merchant service charge and the amount of the interchange fee. The aggregation of information is permitted with payee's prior and explicit consent.

2.17 The IFR provides for national discretions in two key areas:

- Member States can decide to implement lower caps on interchange fees for domestic card transactions than the caps in the IFR and, for debit cards, Member States may choose to apply a weighted average interchange fee until 9 December 2020; and/or
- Member States can, based on an assessment of market shares, exempt three-party card systems that operate with licensee issuers or acquirers (see paragraph 2.8) from the IFR until 9 December 2018.

- 2.18 By capping interchange fees the value of direct payments from acquirers to issuers will decline, all else being equal.
- 2.19 Recognising that card system operators may have an incentive to replace interchange fees with a different mechanism, the IFR includes a 'prohibition of circumvention' provision. This provision sets out that any flows of funds that have the same "object or effect" as interchange fees would be treated as an interchange fee for the purpose of applying caps. It aims to ensure that the interchange fee cap results in a reduction in the 'net compensation' to issuers.⁶
- 2.20 The mere presence of a circumvention provision in a regulation does not guarantee that card system operators will not seek to minimise the effects of the interchange fee cap. As a result, the IFR states that competent authorities will be charged with monitoring compliance with the IFR, including the circumvention provision, and taking enforcement action where appropriate.
- 2.21 The IFR also requires Member States to lay down rules on penalties for infringements and to ensure and promote adequate and effective out-of-court complaint and redress procedures (or equivalent) for settling disputes between merchants and acquirers.

Governance and access

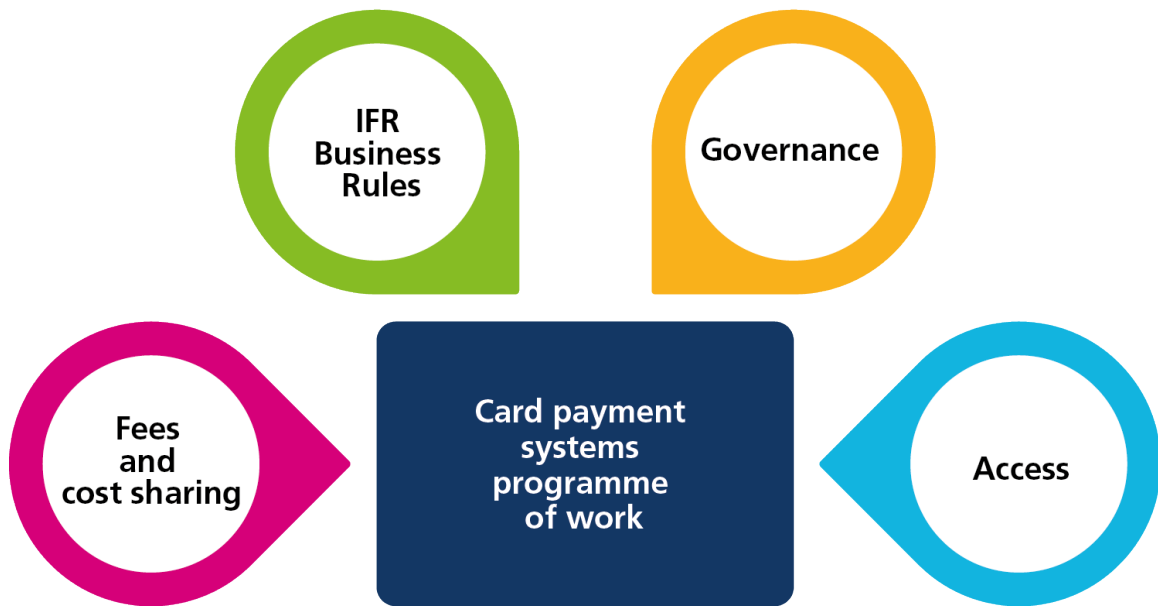
- 2.22 The governance arrangements of card system operators determine how control is exercised over the payment systems in terms of their operation, access, development and customer experience.
- 2.23 In our Consultation Paper CP14/1, we considered governance arrangements and made proposals covering service-users (the appropriate representation of their interests in decision-making) and transparency (through the publication of board minutes) that would apply to all operators, including card system operators. In the case of a service-user direction, we proposed that operators should determine the best approach for their system as appropriate representation of service-users' interests is likely to take a different form for each system. For example, one option might be for independent directors to have a role representing the interests of all, or certain sectors of, service-users and for mechanisms for such a director to understand the views, needs and behaviours of service-users.
- 2.24 However, the policies we set out in our March 2015 Policy Statement were limited to the interbank operators only. We noted that we would consider further the extent to which the interests of service-users are appropriately represented in card operators' decision-making and the appropriateness of regulatory intervention during our work on card systems, and governance issues more generally.⁷
- 2.25 In relation to access to card systems, requirements are specified in the rulebooks prepared by card system operators (at least in respect of direct access). To improve transparency we issued General Direction 3 in our Policy Statement requiring the public disclosure of access requirements by MasterCard and Visa, among others.
- 2.26 A substantial number of organisations are direct PSPs of each four-party card system. Nonetheless, a number of organisations access card systems indirectly, through a sponsor. In some cases, sponsorship arrangements are provided on an intra-group basis (i.e. where one PSP of a group accesses card systems via another PSP of the same group). In other cases, sponsorship arrangements are of a commercial nature (i.e. a direct PSP of a card system provides sponsored access to an unrelated company). We therefore indicated in our Policy Statement that we would consider access to card systems further as part of our cards programme of work.

⁶ 'Net compensation' refers to the total net amount of payments, rebates or incentives in relation to card-based payment transactions or related activities received by an issuer from: the payment card scheme; the acquirer; or any other intermediary. The recitals in the IFR state that 'net compensation' of issuers could include: charges within the card payment system, such as authorisation charges; the total amount of payments or incentives received by an issuer from a payment card system operator; and all payments, incentives and fees, received by an issuer, including those which are direct (i.e. volume-based or transaction-specific) and indirect (including marketing incentives, bonuses, rebates for meeting certain transaction volumes).

⁷ Payment Systems Regulator (March 2015) "A new regulatory framework for payment systems in the UK", PS15/1 at page 28.

3 Programme of work

3.1 Our programme of work is based on four specific work packages, as shown in the figure below.



3.2 While each work package focuses on a separate issue, there are important interactions between them. Indeed, a key driver for launching this programme of work was to understand the functioning of card systems as a whole before deciding on the best course of action.

3.3 In the remainder of this section we describe the topics that will be covered by each work package.

Fees and cost sharing

3.4 The purpose of this work package is to gather evidence on the full range of fees, charges, fines and other cost sharing mechanisms in card systems. We also seek views on likely responses to interchange fee caps and the effect on innovation. This will enable us to understand how the IFR might affect other fees in the system, given the nature of competition within and between card systems.

3.5 While there is substantial economic literature on interchange fees, and numerous competition and regulatory publications on these fees, relatively little attention has been paid to other cost sharing mechanisms in card systems, such as scheme fees and rules governing chargebacks (i.e. the reversal of a card transaction) and fraud. We want to identify and understand the extent to which each of those arrangements might be amended in a way that would affect the balance of system costs across the issuing and acquiring sides of the market following the introduction of the IFR.

3.6 To help our thinking on these topics we have set out a number of questions on which we would welcome stakeholders' input.

Questions on fees and cost sharing

3.7 We seek evidence and explanations in relation to the following questions:

Q1: Besides interchange fees, please identify and describe all other monetary transactions within card systems. This should include fees, fines, charges and similar, including rebates, incentives and bonuses. You should respond separately for transactions involving:

- a) Merchants
- b) Acquirers
- c) Payment facilitators⁸
- d) Issuers
- e) Card partners
- f) Cardholders
- g) Any other relevant parties (please identify them when responding)

Q2: To what extent does the increment of the Merchant Service Charge over the interchange fee differ between merchants? What factors explain this?

3.8 We seek views on the following questions. Please provide supporting evidence where possible.

Q3: How do you expect three- and four-party card system operators to respond to the capping of interchange fees on debit and credit cards?

Q4: How do you expect issuers to respond to the capping of interchange fees on debit and credit cards?

Q5: How do you expect acquirers to respond to the capping of interchange fees on debit and credit cards?

Q6: How do you expect innovation to be affected by the capping of interchange fees on debit and credit cards, if at all?

Business rules in the IFR

3.9 In this work package, we will work with card systems operators and other stakeholders to understand how stakeholders are interpreting the various business rules in the IFR, including functional separation. We also wish to understand how they will affect the operation of card systems in the UK, what the expected timelines for implementation are, and what the operational impacts of the changes will be.

3.10 We are participating in the European Banking Authority's working group which will develop draft regulatory technical standards establishing the requirements to be complied with by payment card systems and processing entities in respect of functional separation.

3.11 We will also consider the best way to monitor compliance with each of the business rules included in the IFR. This will involve looking at the risks and impacts of potential non-compliance against the regulatory burden and potential for unintended consequences that different monitoring approaches might create

3.12 To help our thinking on these topics we have proposed a number of questions on which we would welcome stakeholders' input.

⁸ A third party agent that facilitates payment processing and the settlement of transactions on behalf of a merchant or an acquirer.

Questions on business rules

3.13 We seek views on the following questions:

- Q7:** Are there any business rules included in the IFR for which you would like greater clarity on how they will be interpreted? Please explain your response.
- Q8:** For each of the business rules included in the IFR, what are the key operational challenges that you will face in becoming and remaining compliant on an ongoing basis? Please provide evidence to support your response.
- Q9:** For each of the business rules included in the IFR, how long do you think it will take you to become compliant? Please provide evidence to support your response.
- Q10:** For each of the business rules included in the IFR, what do you expect the impacts to be on your business (in terms of costs, system changes, operational changes, etc.) and on other parties, including issuers, acquirers, merchants, consumers / cardholders, payment facilitators and card partners?
- Q11:** In your opinion, what would be an appropriate approach to monitoring compliance with each of the IFR business rules and why?

Governance of card systems

- 3.14 The purpose of this work package is to understand the extent to which there are areas in the governance arrangements of card systems that need to be addressed, and to consider whether (and if so how) the PSR needs to act to tackle any issues that are identified.
- 3.15 For this work programme we will interpret the term 'governance' relatively broadly. It does not simply refer to the composition and functioning of the board/governing body and its decision-making processes, but also includes, for example, the content of rulebooks and the degree to which there is transparency on the exercise of those rules.
- 3.16 Governance arrangements can significantly affect the functioning of card systems, including with respect to cost sharing between the two sides of the market. Consequently, they may influence how operators respond to the IFR.
- 3.17 We also want to understand the extent to which participants comprehend the obligations upon them. Differences in the information available to system operators, acquirers, issuers, merchants and cardholders may be of concern to the PSR if they prevent the operation of a competitive market that works in the interests of cardholders, merchants and consumers.
- 3.18 To help our thinking on these topics we have set out a number of questions on which we would welcome stakeholders' input. Depending on the information provided by stakeholders, and in line with our Administrative Priority Framework, the PSR may choose to take no action at this stage, or may decide to propose policy or other measures under our regulatory and/or competition powers to tackle any identified problems.

Questions on governance

3.19 We seek views on the following questions:

- Q12:** Do you think that there are any problems with the governance arrangements of card systems (including but not limited to the scheme ownership arrangements, how the interests of service-users, including merchants, are represented in card systems' decision-making, and whether there is sufficient transparency over operators' decision-making)? If yes, please explain the

nature and basis of your concerns and provide any relevant examples of instances in which those arrangements have worked to your disadvantage or the disadvantage of some other parties.

Q13: To what extent do you consider that the card system operators' rulebooks governing card systems are transparent and to what extent do you consider issuers, acquirers and service-users, including merchants, can understand their contents?

Q14: Would any changes to the way in which card systems rules and requirements are communicated to service-users, including merchants, help to address any concerns identified in your response to Q13? Please explain your response.

Access to card systems

- 3.20 Our fourth work package will seek to understand why some PSPs choose to access card systems indirectly.⁹ Existing legislation (the EU Payment Services Directive¹⁰) and the transparency and reporting rule included in our General Direction 3 should already ensure that direct access arrangements to card systems are fair and proportionate. We want to understand if there are any impediments to competition that are affecting some PSPs' decisions to access card systems directly, indirectly, or not at all.
- 3.21 It is important to identify why there is a demand for indirect access to card systems because there may be links with other aspects of cards systems (e.g. demand for indirect access may be linked to issues regarding transparency, governance, availability of sponsorship arrangements or costs). We note that some PSPs access card systems through a sponsor that is a member of the same corporate group and it may be that such arrangements simply reflect the administrative efficiencies that can be gained. However, other sponsored access arrangements are commercial in nature and it is these arrangements that we wish to understand in greater detail.
- 3.22 To help our thinking on these topics we have set out a number of questions on which we would welcome stakeholders' input. Depending on the information provided by stakeholders, and in line with our Administrative Priority Framework, the PSR may choose to take no action at this stage, or may decide to propose policy or other measures under our regulatory and/or competition powers to tackle any identified problems.

Questions on indirect access

- 3.23 We seek views on the following questions:

Q15: In your opinion, are there sufficient options for gaining access to card systems, either directly or indirectly, and is there sufficient information available on those options to enable PSPs to make informed decisions? Please explain your response.

Q16: In your opinion, are there barriers to securing indirect access to card systems? If yes, what are these barriers and what is the impact? Please provide evidence to the extent possible.

Q17: If you are a PSP which accesses a card system indirectly, please explain why you have chosen this means of access, as opposed to direct access.

⁹ For the avoidance of doubt, card payment systems are not included in our market review into the supply of indirect access.

¹⁰ Directive 2007/64/EC of 13 November 2007 on payment services in the internal market, implemented in the UK by The Payment Services Regulations 2009 (PSRs 2009).

4 Next Steps

- 4.1 When we issued our Indicative Policy Work Programme in March 2015 we stated that the programme of work on payment cards would last for at least 12 months from the commencement date, which was 1 April 2015. We do not expect the original timetable to be shortened at this stage, but we will keep stakeholders informed of any developments.
- 4.2 This Call for input is open for responses until 31 July 2015.
- 4.3 To make it easier to prepare your response, an accessible version of our consultation questions and cover sheet can be downloaded from our website.
- 4.4 Stakeholders are invited to send their responses to cards@psr.org.uk, accompanied by the cover sheet provided in Annex 3 to this Call for input. We will acknowledge receipt of your response. Please put "Call for input on Card Payment Systems" in your email subject box.
- 4.5 Stakeholders also have the option to send their response to us by mail¹¹ to:
- Payment Systems Regulator
Cards Programme Team
25 The North Colonnade
Canary Wharf
London E14 5HS
- 4.6 We will publish all non-confidential responses to this Call for input later in the year.
- 4.7 If you have any questions on the Call for input, please contact us at cards@psr.org.uk.

Disclosure of information

- 4.8 Generally we will seek to publish views or submissions in full or in part. This reflects the duty on us to have regard to our regulatory principles, which include those regarding publication in appropriate cases and to exercise our functions as transparently as possible.
- 4.9 As such, we would ask respondents to minimise those elements of their submission which they wish to be treated as confidential – we will assume you have no objection to us publishing material if you do not mark it as such. If respondents include extensive tracts of confidential information in their submissions, we would ask that they submit non-confidential versions which they consent for us to publish. We will also not accept blanket claims of confidentiality, and will require respondents to identify specific information over which confidentiality is claimed, and to explain the basis on which confidentiality is sought.
- 4.10 Respondents should note that we will not disclose confidential information that relates to the business or affairs of any person, which we receive for the purposes of our functions under FSBRA, unless¹²:
- the information is already lawfully publicly available;

¹¹ We will however ask all stakeholders to provide electronic Word and PDF versions of their responses.

¹² The Gateways are set out in the Financial Services (Banking Reform) Act 2013 (Disclosure of Confidential Information) Regulations 2014, S.I. 2014/882.

- we have the consent of the person who provided the information and, if different, the person to whom it relates;
- the information is published in such a way that it is not possible to ascertain from it information relating to a particular person (for example, if it is anonymised or aggregated); or
- there is a 'gateway' permitting this disclosure. Among the gateways is the 'self-help' gateway whereby the PSR will be able to disclose confidential information to third parties to enable or help it to perform its public functions. Those receiving information disclosed under the gateway are still bound by the confidentiality regime.

4.11 Respondents should note that we have statutory powers under FSBRA¹³ to require a person to provide information or documents which we require in connection with our functions. In such circumstances, respondents should note that there are serious consequences for them if they then provided false or misleading information or failed to comply with a requirement:

- a. It is a criminal offence, when, in response to a written requirement to provide information under section 81(1) FSBRA, a person either provides information which he or she knows is false or misleading in a material particular or recklessly provides information which is false or misleading in a material particular¹⁴.
- b. A person who fails to comply with a requirement imposed, without reasonable excuse, including a requirement to provide information, may be dealt with as if he or she were in contempt of court, which may result in imprisonment or a fine¹⁵."

¹³ Section 81(1) FSBRA

¹⁴ Section 90(6) FSBRA

¹⁵ Sections 90(1) & 2 FSBRA

Annex 1

Full List of Questions

Fees and cost sharing

We seek evidence and explanations on the following questions:

- Q1:** Besides interchange fees, please identify and describe all other monetary transactions within card systems. This should include fees, fines, charges and similar, including rebates, incentives and bonuses. You should respond separately for transactions involving:
- a) Merchants
 - b) Acquirers
 - c) Payment facilitators
 - d) Issuers
 - e) Card partners
 - f) Cardholders
 - g) Any other relevant parties (please identify them when responding)
- Q2:** To what extent does the increment of the Merchant Service Charge over the interchange fee differ between merchants? What factors explain this?

We seek views on the following questions. Please provide supporting evidence where possible.

- Q3:** How do you expect three- and four-party card system operators to respond to the capping of interchange fees on debit and credit cards?
- Q4:** How do you expect issuers to respond to the capping of interchange fees on debit and credit cards?
- Q5:** How do you expect acquirers to respond to the capping of interchange fees on debit and credit cards?
- Q6:** How do you expect innovation to be affected by the capping of interchange fees on debit and credit cards, if at all?

Business rules in IFR

We seek views on the following questions:

- Q7:** Are there any business rules included in the IFR for which you would like greater clarity on how they will be interpreted? Please explain your response.
- Q8:** For each of the business rules included in the IFR, what are the key operational challenges that you will face in becoming and remaining compliant on an ongoing basis with the rules? Please provide evidence to support your response.
- Q9:** For each of the business rules included in the IFR, how long do you think it will take you to become compliant with the rules? Please provide evidence to support your response.

- Q10:** For each of the business rules included in the IFR, what do you expect the impacts to be on your business (in terms of costs, system changes, operational changes, etc.) and on other parties, including issuers, acquirers, merchants, consumers / cardholders, payment facilitators and card partners?
- Q11:** In your opinion, what would be an appropriate approach to monitoring compliance with each of the IFR business rules and why?

Governance

We seek views on the following questions:

- Q12:** Do you think that there are any problems with the governance arrangements of card systems (including but not limited to how the interests of service-users, including merchants, are represented in card systems' decision-making, and whether there is sufficient transparency over operators' decision-making)? If yes, please explain the nature and basis of your concerns and provide any relevant examples of instances in which those arrangements have worked to your disadvantage or the disadvantage of some other parties.
- Q13:** To what extent do you consider that the rulebooks governing card systems are transparent and to what extent do you consider issuers, acquirers and service-users, including merchants, can understand their contents?
- Q14:** Would any changes to the way in which card systems rules and requirements are communicated to service-users, including merchants, help to address any concerns identified in your response to Q13? Please explain your response.

Indirect access

We seek views on the following questions:

- Q15:** In your opinion, are there sufficient options for gaining access to card systems, either directly or indirectly, and is there sufficient information available on those options to enable PSPs to make informed decisions? Please explain your response.
- Q16:** In your opinion, are there barriers to securing indirect access to card systems? If yes, what are these barriers and what is the impact?
- Q17:** If you are a PSP which accesses a card system indirectly, please explain why you have chosen this means of access, as opposed to direct access.

Annex 2

Glossary

This table includes the glossary and abbreviations used for the purposes of this Calls for Input.

Term or acronym	Description
access requirements	The rules (including criteria), terms or conditions (including fees and charges), policies or procedures governing access to, or participation in, a regulated payment system.
card (payment card)	A device or personalised set of procedures agreed between the service-user and the PSP that can be used by its holder to pay for goods and services or to withdraw money. For the purposes of this Call for input, we are interested in payment cards used for the purposes of purchase transactions, not for the withdrawal of cash from ATMs.
card acquirer (or acquirer)	A PSP that processes card payments on behalf of a merchant. In point-of-sale transactions, the acquirer is the entity to which the merchant transmits the necessary information in order to process the card payment.
card issuer (or issuer)	A PSP that makes payment cards available to cardholders, authorises cards and card-initiated transactions (i.e. at point-of-sale, online or at ATMs), and guarantees payment to the acquirer for transactions that conform with the rules of the relevant system.
card payment system	A payment system that enables a holder of a payment card to effect a payment.
card systems operator	An operator of a card payment system.
cardholder	An end-user who holds a payment card.
CMA	Competition and Markets Authority.
direct access	A PSP has direct access to a payment system if the PSP is able to provide services for the purposes of enabling the transfer of funds using the payment system as a result of arrangements made between the PSP and the operator. (See also s.42(6) FSBRA). In a card payment system context, a PSP with direct access to a payment system can sponsor other PSPs (indirect PSPs).
direct PSP	A PSP that has direct access to a payment system.
end-user	A consumer or business who wishes to make a payment (a payer) or receive a payment (a payee).
FCA	Financial Conduct Authority.

Term or acronym	Description
four-party card system	A card system where the stakeholders involved are: 1) the issuer; 2) the acquirer; 3) the cardholder; and 4) the merchant. Examples of four-party systems are MasterCard and Visa.
FSBRA	Financial Services (Banking Reform) Act 2013, as amended from time to time.
General Direction 3	The PSR's General Direction 3 sets out a reporting rule for all regulated operators to whom Part 8 of the PSRs 2009 apply – at this time, this includes LINK, MasterCard and Visa. The reporting rule requires these operators to keep under review their access requirements, provide annual compliance reports to the PSR, keep the PSR informed of any material updates and changes which are made to their access requirements and publish their access requirements on their website. The PSR's General Direction 3 is available at https://www.psr.org.uk/how-psr-regulates/regulatory-framework-and-approach/general-directions .
IFR (Interchange Fee Regulation)	Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions, published in the Official Journal of the EU on 19 May 2015.
indirect access	A PSP has indirect access to a payment system if it has a contractual arrangement with a Direct PSP to enable it to provide services (for the purposes of enabling the transfer of funds using that payment system) to its customers. In a card payment system context, PSPs with indirect access can perform all of the functions of a direct PSP but they must be authorised by a direct PSP who remains responsible for their settlement and other activities.
indirect PSP	A PSP that has indirect access to a payment system.
infrastructure provider	Any person who provides or controls any part of the infrastructure used for the purposes of operating a payment system (see also s.42(4) FSBRA).
interchange fees	The term used in the payment card industry to describe a fee usually paid between PSPs for the acceptance of card-based transactions. For example, for credit or debit card transactions, the interchange is a fee paid to the cardholder's PSP (the 'card-issuing PSP') by a merchant's PSP (the 'acquiring PSP') for each transaction made.
merchant	In a card payment system context, a merchant is the retailer or service provider that accepts card-based payments from cardholders through the services of an acquirer.
MSC (Merchant Service Charge)	A fee that merchants pay to their acquirer, in return for a range of services (including payment guarantee, connectivity to the card system network, terminal hardware and software, customer support).

Term or acronym	Description
(our) objectives	The PSR's statutory objectives as set out in ss.50-52 FSBRA – these are the competition objective, the innovation objective and the service-user objective.
operator	In relation to a payment system, an operator means any person with responsibility under the system for managing or operating it; and any reference to the operation of a payment system includes a reference to its management. (See also s.42(3) FSBRA).
participant (in a payment system)	This includes payment system operators, payment services providers, and infrastructure providers. (See also s.42(2) FSBRA).
payment facilitator	<p>A third party that facilitates payment processing and the settlement of transactions on behalf of a merchant or an acquirer.</p> <p>If it operates for a merchant, it will facilitate the receipt of the payments for the merchant and receive the settlement of transaction proceeds from an acquirer on behalf of the merchant. It would provide a one-stop solution for the merchant.</p> <p>If the payment facilitator operates for the acquirer, it will sign the contract with the acquirer and be the merchant of record (and will therefore deal with the acquirer on behalf of merchants) and then sign up all sub-merchants. Merchants will have no direct relationship with the acquirer.</p>
payment processing	The performance of the actions required, in accordance with the rules of a payment system, for the handling of a transfer of funds from the point of acceptance by the system to the point of discharge from the system. Processing may include initiation, clearing, sorting, netting, and/or matching.
payment system	A payment system is a system which is operated by one or more persons in the course of business (for the purpose of enabling persons to make transfers of funds), and includes a system which is designed to facilitate the transfer of funds using another payment system. (See also s.41 FSBRA).
PSD (Payment Services Directive)	The European Payment Services Directive (2007/64/EC) which has been implemented into UK law by the PSRs 2009. The PSD provides the legal foundation for the creation of an EU-wide single payments market.
PSD2	<p>A proposed revision of the PSD.</p> <p>The Proposal for a Directive on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC, has not yet been published in the Official Journal of the EU but is available as a compromise text as document number ST 9336 2015 INIT/ institutional file 2013/0264 (COD) at http://data.consilium.europa.eu/doc/document/ST-9336-2015-INIT/en/pdf.</p>

Term or acronym	Description
PSP (Payment Services Provider)	A PSP, in relation to a payment system, means any person who provides services to persons who are not participants in the system for the purposes of enabling the transfer of funds using the payment system (see also s.42(5) FSBRA). For the purposes of this Call for input, this includes Direct PSPs and Indirect PSPs.
PSRs 2009	The Payment Services Regulations 2009 (SI 2009/ 209), which implement the PSD in the UK, as amended from time to time.
regulated payment system	A payment system designated by the Treasury pursuant to s.43 FSBRA.
service-user	Service-user means those who use, or are likely to use, services provided by payment systems.
Sponsor Bank	A PSP that has direct access (direct PSP) to a regulated payment system and provides indirect access to that system to other PSPs (indirect PSPs) for the purpose of enabling the transfer of funds within the United Kingdom, including through the provision of sort codes (for interbank payment systems), or issuer identification numbers or bank identification numbers (for card payment systems). Sponsor Banks are a specific type of indirect access provider (indirect access providers refers to a broader category of direct PSPs, and includes direct PSPs which do not provide sort codes in interbank payment systems).
three-party card system	A card system involving the following stakeholders: 1) the card system itself, which acts as issuer and acquirer; 2) the cardholder; and 3) the merchant. An example of a three-party system is American Express.
the Treasury/HMT	Her Majesty's Treasury.

Annex 3

Cover sheet for response to a Call for input by the Payment Systems Regulator

BASIC DETAILS

Consultation title:

Call for input on Card Payment Systems ([Cf15/1])

Name of respondent:

Contact details/job title:

Representing (self or organisation/s):

Email:

Address:

CONFIDENTIALITY

The Payment Systems Regulator (PSR) will assume that your response is non-confidential and can be published and/or referred to unless you identify specific parts of your response as being commercially confidential and explain in an email why you seek commercial confidentiality for each item.

If you are claiming confidentiality over any part(s) of your response, please provide both a non-confidential Word version of your response and a confidential Word version in which specific information over which you are claiming confidentiality is yellow-highlighted. If you are not claiming confidentiality, please provide a Word version of your non-confidential response.

Please tick this box if you are making any claim of confidentiality:

DECLARATION

'I confirm that the correspondence supplied with this cover sheet is a formal consultation response that the PSR can publish. However, in supplying this response, I understand that the PSR may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations, in particular if they are asked to disclose a confidential response under the Freedom of Information Act 2000. I understand that any decision the PSR make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal. If I have sent my response by email, I understand that the PSR can disregard any standard e-mail text about not disclosing email contents and attachments.'

'I confirm that this response only contains accurate, complete and non-misleading information.'

Name

Signed (original or scanned hard copy)

**Please send your response to cards@psr.org.uk
and include this cover sheet with your response**

PUB REF: PSR CFI15/1

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