

Payment Systems Regulator – Supplementary paper with respect to the March 2015 CP15/14 consultation PSR fee

1. This document provides some clarifications with regard to Chapter 7 of the FCA consultation '*FCA Regulated Fees and levies: Rates proposals 2015/16*' (CP15/14), published on 26 March 2015, in response to questions we have received from stakeholders. It also provides some update on responses received concerning VAT treatment of PSR fees.
2. The March 2015 CP15/14 consultation provided feedback on the responses we had received to our proposals set out in the November 2014 consultation '*Regulatory fees and levies: policy proposals for 2015/16*' (CP14/26). This related to how fees will be levied to fund the Payment Systems Regulator (PSR) from Payment Systems Operators (PSOs) which were expected at that time to be designated by the Treasury.
3. We note that the clarifications contained in this document do not modify the proposed PSR fees approach set out in the November 2014 CP14/26 consultation, as updated by the March 2015 CP15/14 consultation.
4. As set out in the November 2014 CP14/26 consultation, our proposed approach to PSR fees, based on an equal allocation with certain adjustments, reflects an appropriate balance between an approach that is relatively simple, transparent and predictable (and, as a result, low-cost to administer) and one that is not disproportionately burdensome or unfair to individual payment systems. This is also consistent with the need to use our resources in an efficient and economical way (see paragraphs 2.13-2.14 on pages 10-11, and paragraph 9 on page 56 of CP14/26). The March 2015 CP15/14 consultation also took into account the systemic importance of the CHAPS system as part of the reasoning for not making an outlier adjustment for CHAPS. Our approach can be described as allocating PSR fees equally to the operators of the pan-UK payment systems that have been designated by the Treasury ("pan-UK PSOs").
5. We also note that we are aware of the concern raised by some PSOs with respect to the VAT treatment of PSR fees when they are passed on by PSOs to the direct members of regulated payment systems. We are giving further consideration to these concerns and will update industry in due course.
6. This document is structured as follows:

- First, we comment on the scope of the payment systems regulated under FSBRA and on which PSR fees will be levied.
- Second, we comment on how we are using the transaction data that we have collected and on three tables contained within CP15/14.
- Third, we make some comments with regard to the onward allocation of PSR fees by PSOs to the direct members of regulated payment systems.

Given the additional information provided in this document, we are also extending the deadline for consultation responses to Chapter 8 of CP15/14 on PSR fees from 18 May to 6pm Friday 29 May 2015.

Scope of the payment systems regulated under FSBRA and on which PSR fees will be levied

7. As set out in consultations CP14/26 and CP15/14, we proposed to levy the PSR fees equally across the PSOs, subject to outlier adjustments. In CP15/14 we set out that the only outlier adjustment that we were proposing to proceed with was in relation to geography, to treat Northern Ireland Cheque Clearing (NICC) and Cheque & Credit (C&C) as a single pan-UK cheque clearing system for fee allocation purposes. We also set out our reasoning in CP15/14 on why we considered that an outlier adjustment based on transaction volumes with respect to CHAPS was not appropriate at this time, and why we did not agree with other requests for outlier adjustments or special treatment based on the degree of competition that individual systems might face.
8. Contemporaneously with the publication of the March 2015 CP15/14 consultation, the Treasury published its designation orders under s.43(1) of the Financial Services (Banking Reform) Act 2013 (FSBRA).
9. The payment systems designated and which are accordingly “regulated payment systems” within the meaning of s.43(1) FSBRA were:
 - Bacs
 - CHAPS
 - Cheque & Credit (C&C)
 - Faster Payments Scheme (FPS)
 - LINK
 - MasterCard
 - Northern Ireland Cheque Clearing (NICC)
 - Visa Europe
10. We note that in the March 2015 CP15/14 consultation we distinguished between CHAPS’ retail/commercial and wholesale activities. We believe that by doing so there is scope for misunderstanding the nature of the CHAPS designation order and the PSR’s remit.
11. It is the entirety of the eight payment systems listed above which have been designated under FSBRA.¹ We note in particular that the Treasury’s CHAPS designation order does not distinguish between the different activities (retail/commercial and wholesale) carried out by the CHAPS system: it is the whole of CHAPS which has been designated. So all of CHAPS (including both retail/commercial and wholesale activities/transactions) is within the PSR jurisdiction as a FSBRA regulated payment system.

¹ The provisions of FSBRA, extend to England and Wales, Scotland and Northern Ireland, as set out in s.147(1) FSBRA.

12. We note that while our current work programme does not cover all elements of all payment systems, our jurisdictional remit under FSBRA (including for directions and market reviews) is wider than simply the work we have so far announced and covers all of the regulated payment systems and their participants (and, under our concurrent competition powers, all payment systems and their participants).
13. In light of the above, and for clarity and the avoidance of doubt, we are therefore withdrawing the three bullet points included on page 45 of the March 2015 consultation CP15/14 which responded to CHAPS' comments about volumes.² We are also reissuing Tables 7.1 and 7.2 and withdrawing Table 7.3 (see paragraphs 18 to 21 below).

Collecting transactions data

14. In our response on page 45 of the March 2015 CP15/14 consultation, we stated:

“In light of the above, our decision is therefore to adopt only a geographic scope outlier exception, as a result of which C&C and NICC will be treated as a single pan-UK cheque clearing PSO for fee allocation purposes. Beyond that, the seven PSOs will be treated equally and PSR fees will be allocated equally across them [...] Our revised approach means that, with the exception of allocating fees between C&C and NICC, transaction volumes will not be used for allocating fees to PSOs at this time...”

15. The volumes and values data that has been provided by PSOs is accordingly not being used to calculate either the level or the allocation of 2015/2016 PSR fees between the pan-UK PSOs. This is because as PSR fees are being allocated equally to pan-UK PSOs.
16. We are however using the data provided in the following way:
 - In the case of C&C and NICC, to apportion their 2015/16 PSR fees as between them based on 2014 transaction volumes.
 - In the case of all systems, to enable us to maintain a current dataset on system transaction volumes and values and to monitor trends over time. This dataset may in future be relevant in considering how PSR fees are set.

Updated Tables 7.1 and 7.2

17. In the March 2015 CP15/14 consultation, we included the following tables:
 - Table 7.1 provided an indication of the Annual Funding Requirement per transaction (as a percentage of average transaction values) across different payment systems.
 - Table 7.2 provided a combination of payment system data from 2014 (total transaction volumes, total transaction value, average transaction value) and data on the allocation of PSR fees between systems. It also provided an indication of the impact of PSR fees allocation on a per transaction basis.
 - Table 7.3 showed our previous approach as set out in the November 2014 CP14/26 consultation, but used an updated annual funding requirement of £28.1 million and 2014 volumes, and was intended to provide an indication of the impact of our revised approach.

² Delete from “However, for completeness we are responding to some points raised by CHAPS about volumes (see paragraph 7.23 above):...” to “We therefore disagree with CHAPS' comments”. (CP15/45 at page 45).

18. We refer to our clarifications above with regard to the scope of regulated payment systems on which PSR fees will be levied. Given that the CHAPS designation applies to the whole of CHAPS (see paragraphs 10 to 13 above), the systems data included in the tables should be that for the CHAPS system as a whole (rather than just for CHAPS' retail/commercial activities). We are accordingly reissuing Tables 7.1 and 7.2 below (and references to Tables 7.1 and 7.2 in the text of the March 2015 CP15/14 consultation should be to these updated tables instead).

Updated Table 7.1:2014 Average Transaction values and Annual Funding Requirement per Transaction

2014		
Average transaction value	AFR per Transaction	
£	% of average transaction value	
Bacs	757	0.000091%
C&C/NICC	1,056	0.000741%
CHAPS	1,860,824	0.000006%
FPS	821	0.000444%
LINK	61	0.003202%
MasterCard	53	0.004219%
Visa Europe	47	0.000982%

Updated Table 7.2:Proposed revised allocation between Payment Systems Operators

2014							
	Transaction volume 000s	Transaction value £m	Average transaction value £		Allocation %	Allocation £m	Allocation per transaction pence
Bacs	5,841,230	4,420,546	757		14.3%	4.01	0.069
C&C/NICC	513,207	541,895	1,056		14.3%	4.01	0.782
CHAPS	36,521	67,959,491	1,860,824		14.3%	4.01	10.992
FPS	1,100,930	903,794	821		14.3%	4.01	0.365
LINK	2,046,831	125,384	61		14.3%	4.01	0.196
MasterCard	1,801,665	95,140	53		14.3%	4.01	0.223
Visa Europe	8,634,894	408,633	47		14.3%	4.01	0.046
Total					100.0%	28.10	
C&C	499,284	519,926	1,041		97%	3.91	0.782
NICC	13,923	21,969	1,578		3%	0.11	0.782
C&C/NICC	513,207	541,895	1,056				

19. In place of Table 7.3, we would simply note that our revised proposed approach resulted in an increase in CHAPS' allocation of PSR fees from £0.26³ million to £4.01 million, and correspondingly reduced the fee of the other pan-UK system operators (with C&C/NICC being counted as one system for fee allocation purposes) from £4.64 million to £4.01 million each.
20. For completeness we note that other than the "Allocation %" and "Allocation £m" columns, all other information included in these revised tables is provided purely for informational purposes.

Onward allocation of PSR fees by PSOs to their direct members

21. We have indicated in CP14/26 and CP15/14 that we expect the PSR fees to be recovered by payment systems from their direct members (those Payment Service Providers which have direct access to the regulated payment system in question).
22. A PSO is free to choose the allocation method it uses to onward allocate PSR fees between its direct members. However:
 - We expect any onward allocation of PSR fees to direct participants to be on a fair, transparent and reasonable basis.
 - We expect PSOs to be mindful of the PSR's statutory competition, innovation and service-user objectives when deciding on that onward allocation methodology, and to not decide on an allocation approach which could adversely impact on the PSR's advancement of its objectives.
 - We believe that transaction volumes are likely to be a relevant measure for PSOs to take into account when considering allocation methodology.
 - When considering how to onward allocate PSR fees across its direct members and activities, a PSO may consider s.41(2) FSBRA.
 - As set out in s.42(8) FSBRA, the Bank of England is not to be regarded as a participant in any payment system and accordingly PSR fees should not be passed onto it.

³ Based on the updated PSR AFR of £28.1 million published in CP15/14.