

FEES (PAYMENT SYSTEMS REGULATOR) INSTRUMENT 2015

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the powers in paragraph 9 (Funding) of Schedule 4 (The Payment Systems Regulator) of the Financial Services (Banking Reform) Act 2013 (“FSBRA”); and
 - (2) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137T (General supplementary powers);
 - (b) section 139A (Power of the FCA to give guidance); and
 - (c) paragraph 23 of schedule 1ZA (Fees).
- B. The rule-making powers listed above are specified for the purpose of paragraph 9 of schedule 4 to FSBRA and section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 April 2015.

Amendments to the FCA Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

Notes

- F. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- G. This instrument may be cited as the Fees (Payment Systems Regulator) Instrument 2015.

By order of the Board of the Financial Conduct Authority
24 March 2015

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>FSBRA</i>	(in <i>FEES</i> 9) the Financial Services (Banking Reform) Act 2013.
<i>payment system</i>	<p>(a) (in accordance with section 41 of <i>FSBRA</i>), a system which is operated by one or more <i>persons</i> in the course of business for the purpose of enabling <i>persons</i> to make transfers of funds, and includes a system which is designed to facilitate the transfer of funds using another payment system;</p> <p>(b) but “payment system” does not include:</p> <ul style="list-style-type: none"> (i) any arrangements for the physical movement of cash; (ii) a system which does not make any provision for the transfer of funds by payers, or to recipients, in the <i>United Kingdom</i>; (iii) a securities settlement system operated by a <i>person</i> approved under regulations made under section 785 of the Companies Act 2006 (provisions enabling procedures for evidencing the transferring title); (iv) a system operated by a <i>recognised clearing house</i>; (v) any other system whose primary purpose is not that of enabling <i>persons</i> to transfer funds.
<i>PSR</i>	Payment Systems Regulator, the <i>body corporate</i> established by the <i>FCA</i> under section 40(1) of <i>FSBRA</i> .
<i>PSR fee</i>	the fee payable to the <i>FCA</i> by an <i>operator</i> of a <i>regulated payment system</i> under <i>FEES</i> 9.2.1R.
<i>regulated payment system</i>	a <i>payment system</i> designated by HM Treasury under section 43 of <i>FSBRA</i> .

Amend the following definition as shown.

operator

...

- (3) (in FEES 1 and 9), any person with responsibility under a payment system for managing or operating it; and any reference to the operation of a payment system includes a reference to its management.

[Note: section 42(3) of FSBRA]

...

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1 Fees Manual

1.1 Application and Purpose

...

1.1.1B G *FEES 9 (Payment System Regulator Funding) relates to PSR fees.*

...

Application

...

1.1.2A R *FEES 1 and 9 apply to an operator of a regulated payment system.*

...

2 General Provisions

2.1 Introduction

...

2.1.1A R This chapter does not apply in relation to:

(1) *FEES 5.5A;* or

(2) *FEES 5 Annex 2R;* or

(3) *FEES 5 Annex 3R;* or

(4) *a PSR fee.*

...

After FEES 8 insert the following new chapter. The text is not underlined.

9 Payment Systems Regulator funding

9.1 Application and purpose

Application

9.1.1 R This chapter applies to an *operator* of a *regulated payment system*.

Purpose

9.1.2 G This chapter sets out the fee payable by an *operator* of a *regulated payment system* to establish and fund the *PSR*.

Introduction

9.1.3 G Section 40(1) of *FSBRA* (The Payment Systems Regulator) requires the *FCA* to establish the *PSR*.

9.1.4 G (1) Paragraph 9 of Schedule 4 of *FSBRA* allows the *FCA* to make *rules* requiring participants in *regulated payment systems* to pay the *FCA* specified amounts or amounts calculated in a specified way to:

- (a) meet the relevant costs referred to in (2) below; and
- (b) enable the *PSR* to maintain adequate reserves.

(2) The relevant costs in (1)(a) means:

- (a) the expenses incurred, or expected to be incurred, by the *PSR* in connection with the discharge of its functions;
- (b) the expenses incurred by the *FCA* in establishing the *PSR*;
- (c) any other expenses incurred by the *FCA* in connection with the discharge of its functions under Part 5 of *FSBRA*; and
- (d) any expenses incurred, or expected to be incurred, by the *FCA* in connection with the discharge of the *PSR*'s functions by an officer or member of staff of the *FCA* under arrangements made under paragraph 5 of Schedule 4 of *FSBRA*.

(3) The amounts in (1) may include the expenses of the *FCA* in collecting *PSR fees*.

9.1.5 G *FEES* 9 sets out the *rules* referred to in *FEES* 9.1.4G

9.1.6 G The *FCA* must pay to the *PSR* the amounts that it receives as *PSR fees*, apart from the following amounts (which it may keep):

- (1) expenses under *FEES* 9.1.4G(2)(b) to (d); and
- (2) collection costs, referred to in *FEES* 9.1.4G(3).

Annual budget and annual plan

- 9.1.7 G (1) Paragraph 4(1) of Schedule 4 of *FSBRA* requires the *PSR* to adopt an annual budget which has been approved by the *FCA*.
- (2) Paragraph 6(1) of Schedule 4 of *FSBRA* requires the *PSR* to prepare an annual plan which has been approved by the *FCA*.
- 9.1.8 G (1) *PSR fees* will vary from year to year, depending on the *PSR*'s annual plan and budget.
- (2) These details are in *FEES* 9 Annex 1R.
- (3) The *FCA* will prepare and consult on new details for each *fee year*.

9.2 PSR fees

Obligation to pay PSR fees

- 9.2.1 R An *operator* of a *regulated payment system* must pay the applicable *PSR fee* in *FEES* 9 Annex 1R:
- (1) in full and without deduction; and
 - (2) in accordance with this chapter.

Time of payment

- 9.2.2 R If an *operator* of a *regulated payment system*'s fee for the previous *fee year* was at least £50,000, that *operator* must pay:
- (1) an amount equal to 50% of the *PSR fee* payable for the previous *fee year*, by 30 April in the current *fee year*; and
 - (2) the balance of the *PSR fee* due by 1 September in the current *fee year*.
- 9.2.3 R If an *operator* of a *regulated payment system*'s fee for the previous *fee year* was less than £50,000, the *operator* of that *regulated payment system* must pay its *PSR fee* in full:
- (1) by 1 August in the current *fee year*; or
 - (2) if later, within 30 *days* of the date of the invoice in the current *fee year*.

[**Note:** Transitional provisions apply to both *FEES* 9.2.2R and *FEES* 9.2.3R: see *FEES* TP 12.]

Method of payment

- 9.2.4 G An *operator* of a *regulated payment system* should pay its fees by electronic credit transfer and should notify the *FCA* if it intends to pay in another way.

Regulated payment systems ceasing to be a designated payment system

- 9.2.5 G The *FCA* will not relieve or refund a *PSR fee* if a *payment system* ceases to be a *regulated payment system* after the start of that *fee year*.
- 9.2.6 R If a *payment system* ceases to be a *regulated payment system*, the *operator* of that system must pay any outstanding *PSR fees* before it ceases to hold that status.

Late payments

- 9.2.7 R If an *operator* of a *regulated payment system* does not pay the total amount of its *PSR fees* before the end of the date on which it is due it must pay:
- (1) an administrative fee of £250; plus
 - (2) interest on any unpaid part of the fee at an annual rate of 5% above the Official Bank Rate from time to time in force, accruing daily from the date on which the amount concerned became due.

Reduction, remission and repayment of fees

- 9.2.8 G The *FCA* may reduce or remit all or part of a *PSR fee*, if it appears to the *FCA*, having consulted the *PSR*, that in the exceptional circumstances of a particular case paying all or part of it would be inequitable.
- 9.2.9 G The *FCA* may refund all or part of a *PSR fee* if it appears to the *FCA*, having consulted the *PSR*, that in the exceptional circumstances of a particular case the *FCA* or the *PSR* retaining all or part of it would be inequitable.
- 9.2.10 G The *FCA* will not consider a claim to refund a *PSR fee* due to a mistake of fact or law by the fee paying *operator* of a *regulated payment system* if the claim is made more than two years after the beginning of the *fee year* to which the fee relates.

VAT

- 9.2.11 R *PSR fees* payable are stated net of VAT. Where VAT is applicable this must also be included.

**9 Annex PSR fees for the period 1 April 2015 to 31 March 2016
1R**

The table below shows the *PSR fee* applicable to the *operator* of each *regulated payment system*.

Table A

Name of regulated payment system	Amount payable by the relevant operator (£)
[tbc]	[tbc]

After FEES TP 11 insert the following new FEES TP 12. The text is not underlined.

TP 12 Transitional provisions relating to operators of regulated payment systems

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
12.1	<i>FEES 9.2.2R and FEES 9.2.3R</i>	R	Replace the current <i>FEES 9.2.2R</i> and <i>FEES 9.2.3R</i> with the following: “An <i>operator</i> of a <i>regulated payment system</i> must pay its <i>PSR fee</i> in full by 1 August 2015 or, if later, within 30 <i>days</i> of the date of the invoice to which the <i>PSR fee</i> relates.”	From 1 April 2015 until 31 March 2016	1 April 2015