
STATUTORY INSTRUMENTS

2023 No. 790

The Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023

Amendments to the Payment Card Interchange Fee Regulations 2015

3.—(1) The Payment Card Interchange Fee Regulations 2015(1) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “the 2013 Act” insert—

““card-based payment transaction” means a service based on a payment card scheme’s infrastructure and business rules to make a payment transaction by means of any card, telecommunication, digital or IT device or software if this results in a debit or a credit card transaction, but does not include transactions based on other kinds of payment services;

“co-badging” means the inclusion of two or more payment brands or payment applications of the same brand on the same card-based payment instrument;”;

(b) in paragraph (b) of the definition of “compliance failure”, at the end insert “or 4A”;

(c) in the definition of “general direction” at the end, insert “or 4A(8)”;

(d) after the definition of “general guidance” insert—

““interchange fee” means a fee paid for each transaction directly or indirectly (including fees paid through a third party) between the issuer and the acquirer involved in a card-based payment transaction, and includes the net compensation or other agreed remuneration;”;

(e) after the definition of “the interchange fee regulation”, insert—

““payee” means a person who is the intended recipient of funds which have been the subject of a payment transaction;

“payer” means a person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order;

“payment account” means an account held in the name of one or more payment service users which is used for the execution of payment transactions, including a specific account for electronic money as defined in regulation 2(1) of the Electronic Money Regulations 2011(2);

“payment application” means computer software or equivalent loaded on a device enabling card-based payment transactions to be initiated and allowing the payer to issue payment orders;

“payment brand” means any material or digital name, term, sign, symbol or combination thereof, capable of denoting under which payment card scheme card-based payment transactions are carried out;

(1) S.I. 2015/1911.

(2) S.I. 2011/99.

“payment card” means a category of payment instrument that enables the payer to initiate a debit or credit card transaction;

“payment card scheme” means a single set of rules, practices, standards and/or implementation guidelines for the execution of card-based payment transactions and which is separated from any infrastructure or payment system that supports its operation, and includes any specific decision-making body, organisation or entity accountable for the functioning of the scheme;

“payment instrument” means any personalised device and/or set of procedures agreed between the payment service user and the payment service provider and used in order to initiate a payment order;

“payment order” means any instruction by a payer to its payment service provider requesting the execution of a payment transaction;

“payment service provider” has the meaning given in regulation 2(1) of the Payment Services Regulations 2017(3);

“payment services” has the meaning given in regulation 2 of the Payment Services Regulations 2017;

“payment system” has the meaning given in regulation 2 of the Payment Services Regulations 2017;

“payment transaction” means an action, initiated by the payer or on its behalf by the payee of transferring funds, irrespective of any underlying obligation between the payer and the payee;

“processing” means the performance of payment transaction processing services in terms of the actions required for the handling of a payment instruction between the acquirer and the issuer;

“processing entity” means any person providing payment transaction processing services;”.

(f) for the definition of “regulated person” substitute—

““regulated person” means a person—

- (a) on whom an obligation, prohibition or restriction is imposed by any provision of the interchange fee regulation, or
- (b) who is subject to a direction under regulation 4A(1).”;

(g) after paragraph (1), insert—

“(1A) For the purposes of paragraph (1)—

“acquirer” means a payment service provider contracting with a payee to accept and process card-based payment transactions, which result in a transfer of funds to the payee;

“credit card transaction” means a card-based payment transaction where the amount of the transaction is debited in full or in part, with or without interest, on a date agreed with the payer, under the terms of a prearranged credit facility;

“debit card transaction” means a card-based payment transaction that is not a credit card transaction, and which includes a transaction using a prepaid card;

“issuer” means a payment service provider contracting to provide a payer with a payment instrument to initiate and process the payer’s card-based payment transactions;

“net compensation” means the total net amount of payments, rebates or incentives received by an issuer from the payment card scheme, the acquirer or any other intermediary in relation to card-based payment transactions or related activities.”.

- (3) In regulation 3 (functions of the Payment Systems Regulator)(4)—
- (a) in paragraph (2)—
 - (i) at the end of sub-paragraph (a)(i), omit “or”;
 - (ii) at the end of sub-paragraph (a)(ii), insert—
 - “or
 - (iii) a direction given under regulation 4A;”;
 - (b) for paragraph (4)(c), substitute—
 - “(c) the desirability of sustainable growth in the economy of the United Kingdom in the medium or long term, including in a way consistent with contributing towards achieving compliance by the Secretary of State with—
 - (i) section 1 (target for 2050) of the Climate Change Act 2008, and
 - (ii) section 5 (environmental targets: effect) of the Environment Act 2021,where the Payment Systems Regulator considers the exercise of its functions to be relevant to the making of such a contribution.”;
 - (c) in paragraph (5)(a), for “regulation 4” to the end, substitute “regulation 4 and 4A (in each case considered as a whole)”.
- (4) In regulation 4(2) (directions), in paragraph (a)(i) and (b), in each case, after “and 23” insert “or by a direction given under regulation 4A”.
- (5) After regulation 4 (directions), insert—

“Directions: payment card schemes

- 4A.—**(1) The Payment Systems Regulator may give a direction in writing to any person who is—
- (a) accountable for the functioning of a payment card scheme;
 - (b) an operator of a payment card scheme;
 - (c) a payment service provider;
 - (d) a processing entity;
 - (e) a technical service provider providing services in relation to a payment card scheme.
- (2) A direction under paragraph (1) may be given in relation to—
- (a) the imposition of interchange fees by a payment service provider;
 - (b) the information to be provided in relation to such fees;
 - (c) the operations, rules and practices of a person referred to in paragraph (1), including the information which must be provided by that person to specified people and in specified circumstances;
 - (d) the terms on which payments services are provided in relation to payment card schemes or card-based payment transactions or fees may be charged for those services.

(4) Paragraph (2) of regulation 3 was substituted by [S.I. 2018/1115](#), and amended by [S.I. 2019/284](#).

- (3) A direction may only be given under paragraph (2)(c) or (d) for the following purposes—
- (a) to ensure the separation of a payment card scheme and processing entities;
 - (b) to regulate the use by a payment card scheme of terms, conditions, practices, rules or restrictions which may affect the cost and ease of—
 - (i) payees accepting payments by payment card, and
 - (ii) payers making payments by payment card;
 - (c) to ensure the interoperability of systems in relation to processing entities;
 - (d) to ensure transparency as to the fees charged and the terms on which an individual card-based payment transaction is made;
 - (e) to prevent the use of territorial restrictions within the United Kingdom or rules having an equivalent effect in—
 - (i) licensing agreements, or
 - (ii) the rules of a payment card scheme for issuing payment cards or acquiring card-based payment transactions; or
 - (f) to support the co-badging of payment brands or payment applications.
- (4) A direction under paragraph (1) may—
- (a) require or prohibit the taking of specified action in relation to any payment card scheme;
 - (b) set standards to be met—
 - (i) by any person referred to in paragraph (1), or
 - (ii) by or in relation to any card-based payment transaction or payment card scheme.
- (5) A direction setting standards under paragraph (4)(b) may require—
- (a) the establishment of rules relating to—
 - (i) the operation of a payment card scheme;
 - (ii) the provision of payment services, payment transaction processing services or technical services in relation to a payment card scheme;
 - (iii) licensing agreements entered into in relation to a payment card scheme;
 - (b) the amendment of the rules in a specified way or to achieve a specified purpose;
 - (c) the notification to the Payment Systems Regulator of any proposed change to the rules;
 - (d) the approval of the Payment Systems Regulator for any amendment to the rules.
- (6) A requirement imposed under paragraph (5)(c) or (d) may be general or specific.
- (7) A direction may apply in relation to—
- (a) a specified person,
 - (b) all persons referred to in one or more sub-paragraphs of paragraph (1), or
 - (c) to a specified class of such persons.
- (8) A direction that applies as mentioned in paragraph (7)(b) or (c) is referred to in this Part as a “general direction”.
- (9) The Payment Systems Regulator must publish any general direction.”.
- (6) In regulation 9(1)(a) (appeals: general), after “regulation 4” insert “or 4A”.

(7) In regulation 10(1) (appeals against directions and publication of compliance failures), after “regulation 4” insert “or 4A”.

(8) In regulation 12(1) (payees’ complaints and dispute resolution), for “regulations 22 and 23” substitute “regulation 23 and any direction given under regulation 4A”.

(9) In regulation 14(1)(b) (information and investigation), for “regulations 22 and 23” substitute “regulation 23 and with a direction given under regulation 4A”.

(10) In regulation 15 (application of other provisions of the 2013 Act), in paragraph (2)(a)(i), and in paragraph (3)(b)(i), in each case at the end insert “or 4A”.