

Payment Services Regulations - Industry Best Practice:

The UK Payment Schemes in the
context of the PSRs conduct of
business requirements

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Introduction

The Payments Council

The Payments Council is the organisation that sets strategy for UK payments. It was established to ensure that UK payment systems and services meet the needs of users, payment service providers and the wider economy.

The Payments Council has three core objectives:

- to have a strategic vision for payments and lead the future development of co-operative payment services in the UK;
- to ensure payment systems are open, accountable and transparent; and
- to ensure the operational efficiency, effectiveness and integrity of payment services in the UK.


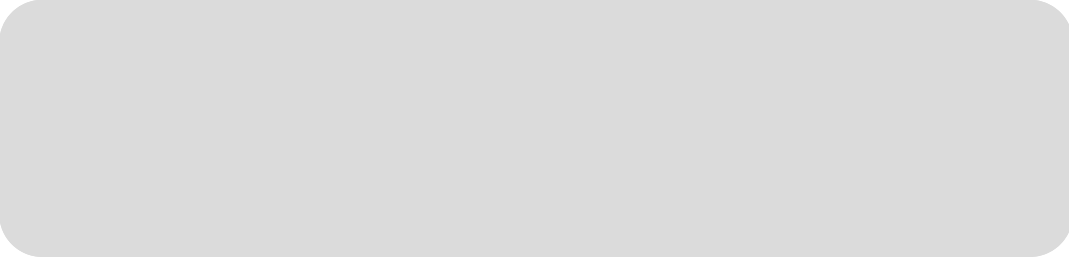
The Payments Council is a membership organisation funded by its members, with an independent chairman.

Purpose of this document

The Payments Council, as the strategic body for payments in the UK, is issuing this guidance document to aid interpretation of, and compliance with, the Payment Services Regulations (PSRs). It follows on from the PSRs Industry Best Practice Guidelines published by Payments Council in 2009, which provided high level guidance on selected issues for payment service providers (PSPs) implementing the PSRs.

This guidance document sets out some of the relevant features of the UK payment schemes in the context of the PSRs conduct of business requirements, particularly the maximum execution time requirement of D+1 (Regulation 70), which will take effect on 01 January 2012. It is written from the scheme perspective so therefore largely focuses on direct members rather than getting into the detail of the implications for agency PSPs or indirect members.

Direct members are those that are full members of a scheme and have direct access to the technical infrastructure. As well as processing the payments of their own customers they can also provide, under contractual arrangements, clearing services to other PSPs that are not direct members of the scheme. Direct members operate settlement accounts at the Bank of England (a requirement of scheme membership), which is where all inter-bank settlement takes place. Agency PSPs will hold accounts at their settlement members for the purposes of their own settlement requirements.



These contractual arrangements will differ between providers so it is important that PSPs using agency services do speak to their own settlement member for further information or guidance on their individual propositions. Nevertheless, the requirements of the PSRs are the same regardless of whether a PSP is a settlement member or using agency services so compliance with the conduct of business provisions should be at the heart of any PSP's payment services.

Settlement members do differ between the schemes; lists of current membership can be found on the scheme websites at www.chapsco.co.uk for CHAPS and FPS and at www.bacs.co.uk for Bacs.

The UK Payment Schemes

The Payment Schemes in the UK are CHAPS, the Faster Payments Service (FPS) and Bacs. Whilst the operation and nature of the UK schemes have been designed to allow PSPs to be able to process payments in a manner that meets the requirements of the PSRs, it is the responsibility of the PSPs using the schemes to process their payments in a manner ensuring their own compliance with the PSRs.

It is therefore important that PSPs review their use of the payment schemes, as from 1 January 2012 a D+3 execution time can no longer be agreed with payment service users (PSUs). From that date the onus under Regulation 70(1) will be on the payer's PSP to ensure "that the amount of the payment transaction is credited to the payee's payment service provider's account by the end of the business day following the time of receipt of the payment order" (i.e. D+1). Additionally, whilst outside the scope of the schemes, PSPs will also need to consider the impact on their notification procedures and processes in the context of Regulation 66 (Refusal of payment orders), which requires any notification to "be provided or made available in the way agreed in the framework contract (for example online) at the earliest opportunity and no later than the end of the next business day following receipt of the payment order, or by agreement with the customer, up to three days after the point in time of receipt, until 1 January 2012."¹

¹ FSA: 'The FSA's role under the Payment Services Regulations: Our approach', section 8.124'

Definition of 'D'

Payments can be executed on the day of the receipt of the instruction or on a date specified in the future; both are allowed under the PSRs provided that the time it takes to actually execute the payment is within the maximum timescale set out in the PSRs, which is D+1 from 1 January 2012 (with up to D+3 allowed to be agreed with the PSU up until this date). The day when the payment starts to be executed (or the day the payment order is deemed to have been received) can therefore be different to the day when the PSU physically initiates a payment order, provided that this is agreed with the customer. This is in line with Regulation 65(4) on receipt of payment orders.

As the execution provisions are such an integral part of the PSRs with a clear requirement of D+1 from 01 January 2012, it is important there is a common understanding of what constitutes 'D'.

Regardless of when the payment order is initiated, 'D' is the business day on which the payer requests the payment to start and the payment order is deemed to have been received. For cases other than deferred execution, 'D' is the business day on which the PSU initiates the payment order (or the next business day if the payment is initiated outside of business hours); for future-dated payments it is the business day on which the PSU wants the payment to happen or the day on which the execution should start (if the payment is not a same-day execution).

'D+1' describes the execution timescale set out in Regulation 70, that the payer's PSP must ensure that the amount of the payment transaction is credited to the payee's PSP's account by the end of the business day following the day of receipt of the payment order. Regulation 73 then follows that the amount of the payment transaction is at the payee's disposal immediately after it has been credited to the account of the payee's PSP. The credit value date for the payee's payment account must be no later than the business day on which the payment is credited to the payee's PSP's account.

CHAPS

CHAPS is an electronic bank-to-bank same-day value payment scheme for payments made within the UK in sterling.

Information requirements

Payments executed via CHAPS are processed on sort code and account number – the “unique identifier”. This unique identifier must be specified in the framework contract.

The payments are sent as SWIFT messages and these contain the necessary fields to carry the information required by the PSRs. The information is passed through the CHAPS system to the payee’s PSP, who is responsible for communicating it to the customer as appropriate.


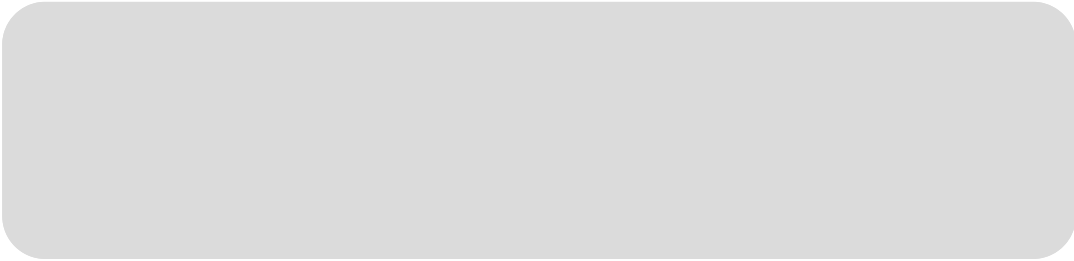
Execution provisions

CHAPS is a same-day system and payments that are sent on a business day will be credited to the customer’s account on the same day (D+0). The “business day” for CHAPS runs from 06.00 to 16.20, Monday to Friday excluding English Bank Holidays. The cut-off time for customer payments to be submitted to the scheme is 16.00. Individual PSPs’ cut-off times for receiving payment orders from customers will likely be earlier than this in order for them to be submitted in time for processing that day; this would have to be specified under Regulation 65 (3).

As CHAPS is a real-time gross settlement system, each payment is guaranteed and irrevocable.

PSPs that are not direct members of CHAPS will be subject to the contractual arrangements that they have with the direct member through whom they process CHAPS payments. Direct members are those PSPs that are members of the scheme. Indirect members are PSPs that do not have a direct connection to the CHAPS technical infrastructure and utilise the services of a direct member to send payments through CHAPS.

In line with the PSRs, the point in time of receipt of the payment order is when it is received by the paying PSU’s own PSP, as defined by Regulation 65.



Rights and obligations

The CHAPS Procedures – scheme rules that only apply between Direct Members – include the handling of return payments, unapplied/wrongly delivered or wrongly transmitted payments in a way that enables compliance with the requirements of the PSRs. The scheme supports audit trails that can be used when queries are raised about unauthorised or incorrectly executed transactions.

Return payments between CHAPS members are made as soon as possible between CHAPS members and no later than 11.00am the next business day.

The CHAPS Procedures state that no transaction charges should be deducted from payments and that returned payments should be made in full.

Access to payment systems

CHAPS has clear and transparent rules regarding its membership criteria. However, as a designated system it is exempt from Part 8 of the PSRs.

Faster Payments Service

The Faster Payments Service (FPS) allows payments to be sent at the time that the payer determines, either immediately as a single immediate payment (SIP) or at a later date as a one-off forward dated payment or a regular standing order. It is used for payments made within the UK in sterling. Each type of Faster Payment has a maximum value limit set at scheme level, which may be changed from time to time. However, individual PSPs may set lower limits and all PSPs providing FPS will make it clear to their customers what their individual value limits are and this information is also available on the CHAPS Co website (www.chapsco.co.uk).

Information requirements

Payment transactions executed via FPS are processed on sort code and account number (together constituting the “unique identifier”). This unique identifier must be specified in the framework contract.


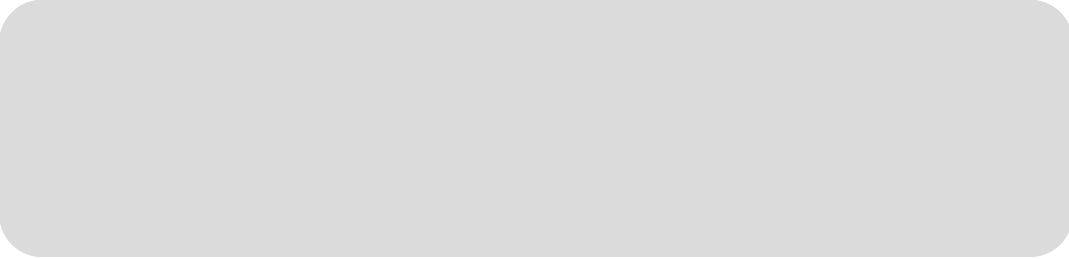
The payment message contains the necessary information fields, including the reference for the payment, for the PSP to comply with the information requirements. The message also contains other fields that can be populated as and when required by the PSP.

When a payment order is received by the payee’s PSP, a message is sent back to the payer’s PSP, which can be passed to the customer to communicate the maximum time it will take the transaction to be executed. This can be communicated in a manner decided by the PSP. This message could also be a rejection of the payment order, which can also be passed on to the customer. Direct participants are required to pass on the information to the payer in near real time. Exceptionally, if the payment channel does not allow the information to be passed direct to customers in this way, an alternative means of communication must be available to the customer.

Execution provisions

Payments sent through FPS between direct participants (i.e. those PSPs that are members of the scheme or others who are directly connected to it) are usually executed and made available to the payee’s account within two hours (or D+0). This exceeds the minimum requirement under the PSRs of D+1 by 1 January 2012.

Only direct participants are governed by the scheme rules. Accordingly, the execution timescales may be longer when the payment chain includes indirect participants (PSPs that are not members or are not directly connected to the



scheme). However, it is nevertheless the responsibility of each indirect participant PSP concerned to ensure their full compliance with the PSRs' execution time provisions, including Regulation 73 on value dating and availability.

Extending FPS reach is seen as crucial to facilitating D+1 compliance. At its meeting on 29 November 2010, the CHAPS Co. Board agreed, in its capacity as FPS Scheme Manager, to introduce an FPS Scheme rule in Q1 2011 "to mandate the Members of the FPS Scheme to ensure that all 'Bacs addressable' sort codes for credits assigned to that Member are able to receive payments processed via the FPS Scheme by the end of December 2011 unless it can be demonstrated that individual sort codes are not used for the receipt of payments". It also agreed that "the Company and all Members should be required to work with non-participating institutions to ensure that indirect participant sort codes are made FPS addressable by the end of December 2011". All PSPs are therefore urged to consider the status of their own sort codes and, if they have not yet done so, to talk to an FPS Scheme Member or to CHAPS Co.

FPS payments can be processed 24 hours a day, 7 days a week but inter-bank settlement only occurs three times a day on Mondays to Fridays, excluding Bank Holidays. However, there is a scheme obligation on direct participants to make the funds available to the payee within defined timescales irrespective of when inter-bank settlement occurs. Regulation 73 obligations remain as the minimum requirements on indirect participants.

The transactions executed through FPS are subject to normal fraud checks, which can create delays in processing when extra checks are required.

Rights and obligations

There are rules in the scheme that allow for corrections and return payments to be made. The scheme does allow for refunds to be made within the specified periods in the PSRs, but they are not restricted to be returned only via FPS. The scheme rules do not mandate charging options and the full amount always travels. The scheme supports audit trails that can be used when queries are raised about unauthorised or incorrectly executed transactions.



Access to payment systems

The membership criteria of the scheme are open and transparent, in line with requirements of the PSRs. The Faster Payments Service applied for SFD designation (a designation given to systemically important systems), and was approved for this on 27 August 2010, making it exempt from Part 8 of the PSRs.

Bacs Direct Credits

Bacs operates Direct Credit and Direct Debit payment schemes over a three day cycle.

Information requirements

Payment transactions executed via Bacs are processed on sort code and account number of the payee – the “unique identifier” of the payee. This enables the PSP to correctly execute the payment transaction. This unique identifier must be specified in the framework contract. In compliance with the information requirements, following the execution of a payment, information is made available to the payee including the payment reference, the amount credited and the credit value date.


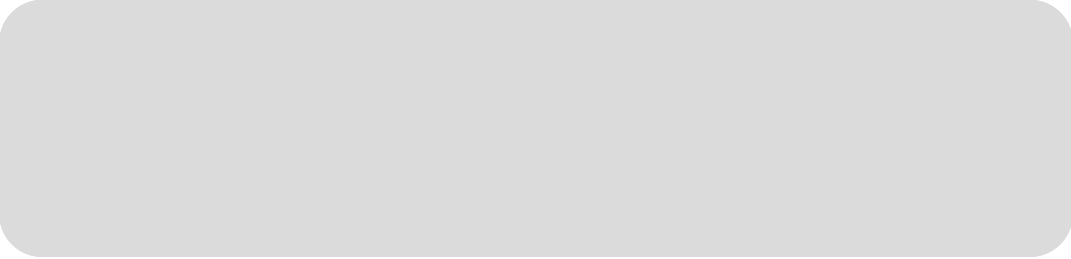
Execution provisions

There are several ways in which the Bacs scheme can be used in terms of executing payment transactions. It is up to individual PSPs to decide how they use the scheme and to ensure that in doing so they remain fully compliant with the PSRs.

For example, the Bacs scheme can be used as a ‘future dated’ payment service, in line with Regulation 65(4). A worked example would be a case where the third day of the Bacs cycle, the day when payments are settled between members of the scheme and debited/credited to the payer’s/payee’s accounts, is deemed as ‘D’. This example would be fully compliant with the PSRs’ post 1 January 2012 maximum execution time requirement of D+1.

However there is a subset of payments that are processed through the Bacs credit scheme today in a way that would not be compliant with the post-1 January 2012 D+1 requirement. Non-compliant payments after this date would include, for example, one-off telephone or internet initiated payments where the payer wants ‘D’ to occur on the same business day as the physical receipt of the payment order by the payer’s PSP (as per Regulation 65(1)), or a standing order processed in such a way that the payer’s account is debited on Day 1 but the payee’s account is only credited on Day 3.

Against this background, the Members of the Payments Council have concluded that FPS is the primary alternative solution to achieving compliance for these types of transactions, a view shared by the FSA. Accordingly, as mentioned earlier, the Members of the Payments Council are now calling for all ‘Bacs addressable sort codes for credits to be made FPS addressable by 31 December 2011’.



End-to-end execution timescales may sometimes be longer where the paying and/or receiving institution is not a direct member; however, irrespective of how the scheme is used it is always the responsibility of each scheme participant – direct or indirect – to ensure their full compliance with the PSRs’ execution time provisions, including Regulation 73 on value dating and availability.

Rights and obligations

The Bacs scheme does not permit any corrections to payments, although individual recall requests are permitted up to 3.30pm, between member banks, on the business day prior to settlement day. Payments that are correctly executed by the payee’s PSP are available to the payee immediately after crediting.

Bacs Direct Debits

Information requirements

Each Direct Debit executed via Bacs is processed on the sort code and account number of the payer – which is the “unique identifier” of the payer. This unique identifier must be specified in the framework contract. In compliance with the information requirements, following the execution of a payment transaction, information is made available to the payer including the payment reference, the amount debited and the debit value date.

Execution provisions

The Bacs Direct Debit scheme can be regarded as a ‘future dated’ payment service, with the third day of the cycle deemed as 'D'. This is also the day when payments are settled between members of the scheme and debited/credited to the payers/payees accounts. End-to-end execution timescales may sometimes be longer where the paying and/or receiving institution is not a direct member; it is nevertheless the responsibility of the indirect participant(s) concerned to ensure their full compliance with the PSRs’ execution time provisions, including Regulation 73 on value dating and availability.

Rights and obligations

A Direct Debit can be revoked up to the business day prior to the day of execution. The Direct Debit Guarantee stipulates that payers are entitled to a full and immediate refund in the event of an error.

Access to payment systems

Bacs has clear and transparent rules regarding its membership criteria. However, as a designated system it is exempt from Part 8 of the PSRs.

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