

SCHEDULES

SCHEDULE 7

Section 51

ACCOUNTABILITY OF THE PAYMENT SYSTEMS REGULATOR

- 1 The Financial Services (Banking Reform) Act 2013 is amended as follows.
- 2 In section 39 (overview)—
- (a) after subsection (11) insert—
- “(11A) Sections 102A and 102B contain provision about Treasury powers to make recommendations in connection with the Payment Systems Regulator’s general duties and to specify matters to which the Regulator must have regard when exercising certain functions.”;
- (b) in subsection (12) for “107” substitute “107A”.
- 3 In section 53 (regulatory principles), in paragraph (c) at the end insert “, including in a way consistent with contributing towards achieving compliance by the Secretary of State with section 1 of the Climate Change Act 2008 (UK net zero emissions target) and section 5 of the Environment Act 2021 (environmental targets) where the Payment Systems Regulator considers the exercise of its functions to be relevant to the making of such a contribution;”.
- 4 After section 102 (power of PRA to require Regulator to refrain from specified action), insert—

“Recommendations

102A Recommendations by Treasury in connection with general duties

- (1) The Treasury may at any time by notice in writing to the Payment Systems Regulator make recommendations to the Regulator about aspects of the economic policy of His Majesty’s Government to which the Regulator should have regard when considering—
- (a) how to advance one or more of its payment systems objectives,
- (b) the application of the regulatory principles in section 53, and
- (c) its exercise of functions under—
- (i) [Regulation \(EU\) 2015/751](#) of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions,
- (ii) the Payment Card Interchange Fee Regulations 2015 ([S.I. 2015/1911](#)), or
- (iii) the Payment Services Regulations 2017 ([S.I. 2017/752](#)).
- (2) The Treasury must make recommendations under subsection (1) at least once in each Parliament.

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- (3) The Payment Systems Regulator must respond to each recommendation made to it under subsection (1) by notifying the Treasury in writing of—
 - (a) action that the Regulator has taken or intends to take in accordance with the recommendation, or
 - (b) the reasons why the Regulator has not acted or does not intend to act in accordance with the recommendation.
- (4) The notice under subsection (3) must be given before the end of 12 months beginning with the date the notice containing the recommendation was given under subsection (1).
- (5) Where the Payment Systems Regulator has given notice under subsection (3) in relation to a recommendation, the Regulator must by notice in writing update the Treasury on the matters mentioned in subsection (3)(a) and (b) before the end of each subsequent period of 12 months.
- (6) Subsection (5) does not apply if the Treasury have notified the Payment Systems Regulator in writing that no update (or further update) is required.
- (7) The Payment Systems Regulator is not required under subsection (3) or (5) to provide any information whose publication would in the opinion of the Regulator be against the public interest.
- (8) The Treasury must—
 - (a) publish in such manner as they think fit any notice given under subsection (1), (3) or (5), and
 - (b) lay a copy of it before Parliament.”

5 Before section 103 (regulator’s general duty to consult) insert (under the italic heading “Consultation, accountability and oversight”)—

“102B Matters to consider when imposing generally applicable requirements

- (1) This section applies where the Payment Systems Regulator proposes to impose a generally applicable requirement (as defined by section 104(1)).
- (2) The Regulator must have regard to any specified matters that are relevant to the imposition of the requirement in question.
- (3) “Specified” means specified in regulations made by the Treasury for the purposes of this section.
- (4) The specification of a matter for the purposes of this section may apply generally to the exercise of a function or be limited in whatever way the Treasury consider appropriate, including by reference to—
 - (a) the power under which the function is carried out;
 - (b) the persons to whom the carrying out of the function apply;
 - (c) the activities or subject-matter to which the function relates.
- (5) The duty under subsection (2) is in addition to any other requirements to have regard to matters when exercising relevant functions imposed by another provision of this Act or by any other enactment.”

6 In section 104 (consultation in relation to generally applicable requirements)—

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- (a) in subsection (1), in the words before paragraph (a) for “section” substitute “Part”;
- (b) in subsection (3) after paragraph (b) insert—
 - “(ba) an explanation of the ways in which having regard to specified matters under section 102B(2) has affected the proposed requirement,”;
- (c) after subsection (12) insert—
 - “(12A) The duty to provide the explanation referred to in subsection (3) (ba) does not apply in relation to any proposed requirement which changes an existing requirement and the changes consist of, or include, changes which, in the Payment Systems Regulator’s opinion, are not material.
 - (12B) Where an explanation is not provided by virtue of subsection (12A), the draft of the proposed requirement must be accompanied by a statement of the Payment Systems Regulator’s opinion.”

7 After section 104 insert—

“104A Requirements in connection with public consultations

- (1) This section applies where the Payment Systems Regulator issues a public consultation.
- (2) The Payment Systems Regulator must include information in the consultation about any engagement by the Payment Systems Regulator with the statutory panels of the Payment Systems Regulator, the FCA and the PRA in relation to the matters being consulted on.
- (3) The Payment Systems Regulator is not required under subsection (2) to include any information whose publication would in the opinion of the Payment Systems Regulator be against the public interest.
- (4) For the purposes of this section, the Payment Systems Regulator issues a public consultation if it publishes any proposals for the purpose of bringing them to the attention of the public (whether or not under a duty to do so imposed by an enactment).
- (5) In this section a “statutory panel”—
 - (a) in relation to the Payment Systems Regulator, means a panel established under section 103(3),
 - (b) in relation to the FCA, has the meaning given by section 1RA(8) of FSMA 2000, and
 - (c) in relation to the PRA, has the meaning given by section 2NA(8) of FSMA 2000.

104B Duty of Regulator to review generally applicable requirements

The Payment Systems Regulator must keep under review generally any generally applicable requirements.

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104C Statement of policy relating to review of requirements

- (1) The Payment Systems Regulator must prepare and publish a statement of its policy with respect to its review of requirements under section 104B.
- (2) The statement must provide information about—
 - (a) how representations (including by a relevant panel) can be made to the Regulator with respect to its review of requirements under section 104B, and
 - (b) the arrangements to ensure that those representations are considered.
- (3) In this section “relevant panel” means—
 - (a) a panel of the Payment Systems Regulator established under section 103(3),
 - (b) a panel of the FCA mentioned in section 1RA(8) of FSMA 2000, and
 - (c) a panel of the PRA mentioned in section 2NA(8) of FSMA 2000.
- (4) If a statement published under this section is altered or replaced by the Payment Systems Regulator, the Regulator must publish the altered or replaced statement.
- (5) A statement prepared under this section must be published by the Payment Systems Regulator in the way appearing to the Regulator to be best designed to bring it to the attention of the public.

104D Requirement to review specified requirements

- (1) The Treasury may by direction require the Payment Systems Regulator to carry out a review of any generally applicable requirement specified in the direction if—
 - (a) the requirement has been in force for at least 12 months,
 - (b) the Treasury consider that it is in the public interest that the requirement is reviewed, and
 - (c) it does not appear to the Treasury that—
 - (i) the regulator is carrying out, or proposes to carry out, a review of that requirement, or
 - (ii) if the regulator proposes to carry out a review, the proposals are appropriate for the purposes of carrying out an effective review.
- (2) The Treasury must consult the Payment Systems Regulator before giving a direction under subsection (1).
- (3) In exercising the power under this section, the Treasury must have regard to the desirability of minimising any adverse effect that the carrying out of the review may have on the exercise by the Payment Systems Regulator of any of its other functions.
- (4) A direction under subsection (1) may—
 - (a) specify the period within which a review must be carried out;
 - (b) determine the scope and conduct of a review;

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- (c) require the provision of interim reports during the carrying out of a review.
- (5) Provision made in a direction under subsection (4)(b) may include a requirement—
 - (a) for a review to be carried out by a person appointed by the Payment Systems Regulator who is independent of the Regulator;
 - (b) for any such appointment to be made only with the approval of the Treasury.
- (6) As soon as practicable after giving the direction the Treasury must—
 - (a) lay before Parliament a copy of the direction, and
 - (b) publish the direction in such manner as the Treasury think fit.
- (7) Subsection (6) does not apply where the Treasury consider that publication of the direction would be against the public interest.
- (8) A direction under this section may be varied or revoked by the giving of a further direction.

104E Report on certain reviews

- (1) This section applies where the Treasury have given a direction to the Payment Systems Regulator under section 104D(1) to carry out a review.
- (2) The Payment Systems Regulator must provide a written report to the Treasury as to the opinion of the Regulator in relation to the following matters—
 - (a) whether the requirements under review advance one or more of the payment systems objectives;
 - (b) whether and to what extent the requirements are functioning effectively and achieving their intended purpose;
 - (c) whether any amendments need to be made to the requirements and, if so, what those amendments should be;
 - (d) whether any requirements should be withdrawn (with or without replacement);
 - (e) whether any other action should be taken and, if so, what that action should be.
- (3) As soon as practicable after receiving the report the Treasury must—
 - (a) lay before Parliament a copy of the report, and
 - (b) publish the report in such manner as the Treasury think fit.
- (4) When complying with subsection (3) the Treasury may withhold material from the report if the Treasury consider that publication of the material would be against the public interest.

104F Power of Treasury to require the imposition of generally applicable requirements

- (1) The Treasury may by regulations require the Payment Systems Regulator to exercise a power under this Part to impose a generally applicable

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requirement in relation to a specified activity or a specified description of person.

- (2) Regulations under this section may—
 - (a) specify matters that the requirement must cover;
 - (b) specify a period within which the requirement must be made.
- (3) But except so far as permitted by subsection (2), regulations under this section may not require the requirement to be imposed—
 - (a) in a specified form or with specified content, or
 - (b) to achieve or advance a specified outcome.
- (4) If no period is specified under subsection (2)(b) the requirement must be imposed as soon as reasonably practicable after the coming into force of the regulations.

104G Consultation with the FCA Cost Benefit Analysis Panel

- (1) Except as provided by subsection (2), the Payment Systems Regulator must consult the FCA Cost Benefit Analysis Panel, and that Panel must provide advice, about the following matters—
 - (a) the preparation of a cost benefit analysis under section 104(3)(a) or (6);
 - (b) the preparation of its statement of policy under section 104H.
- (2) The requirement to consult under subsection (1)(a) does not apply in such cases as may be set out in the statement of policy maintained under section 104H.
- (3) The FCA Cost Benefit Analysis Panel must—
 - (a) keep under review how the Payment Systems Regulator is performing generally in carrying out its duties under section 104(3)(a) and (6), and
 - (b) provide to the Payment Systems Regulator whatever recommendations the Panel thinks appropriate as a result of such review.
- (4) The Payment Systems Regulator must consider representations that are made to it by the FCA Cost Benefit Analysis Panel.
- (5) The Payment Systems Regulator must from time to time publish in such manner as it thinks fit responses to the representations.
- (6) In this section references to the “FCA Cost Benefit Analysis Panel” are to the panel established under section 138IA of FSMA 2000.

104H Statement of policy in relation to cost benefit analyses

- (1) The Payment Systems Regulator must prepare and publish a statement of policy in relation to the preparation of cost benefit analyses for the purposes of section 104.
- (2) The statement must provide information about—
 - (a) the methodology adopted in preparing cost benefit analyses;

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- (b) matters to which the Payment Systems Regulator has regard in determining whether section 104(8) applies;
 - (c) matters to which the Payment Systems Regulator has regard in determining whether section 104(10) or (11) applies in relation to the preparation of a cost benefit analysis;
 - (d) arrangements to ensure that representations in connection with a cost benefit analysis that are made in accordance with section 104(3)(d) are considered;
 - (e) cases in which the requirement to consult the FCA Cost Benefit Analysis Panel in relation to the preparation of a cost benefit analysis does not apply.
- (3) The statement may include whatever other information in relation to cost benefit analyses that the Payment Systems Regulator considers appropriate.
 - (4) The Payment Systems Regulator may alter or replace a statement published under this section.
 - (5) The Payment Systems Regulator must publish a statement as altered or replaced under subsection (4).
 - (6) Publication under this section is to be made in such manner as the Payment Systems Regulator considers best designed to bring the statement to the attention of the public.

104I Statement of policy on panel appointments

- (1) The Payment Systems Regulator must prepare and publish a statement of policy in relation to the appointment of members to any panel established under section 103(3).
- (2) The statement must provide information about—
 - (a) the process adopted for making appointments;
 - (b) matters considered in determining who is appointed.
- (3) The statement may provide whatever other information in relation to the making of appointments that the Payment Systems Regulator considers appropriate.
- (4) The Payment Systems Regulator may alter or replace a statement published under this section.
- (5) The Payment Systems Regulator must publish a statement as altered or replaced under subsection (4).
- (6) Before publishing a statement under this section the Payment Systems Regulator must—
 - (a) consult the Treasury about the proposed statement, and
 - (b) have regard to any representations the Treasury make in response to the consultation.
- (7) Publication under this section is to be made in such manner as the Payment Systems Regulator considers best designed to bring the statement to the attention of the public.”

8 After section 107 insert—

“107A International trade obligations

- (1) This section applies where it appears to the Payment Systems Regulator that there is a material risk that a relevant action it proposes to take would be incompatible with an international trade obligation.
- (2) The Payment Systems Regulator must give written notice to the Treasury of the proposed action before proceeding to take it.
- (3) Subsection (2) applies only if a duty to consult applies in respect of the taking of the relevant action.
- (4) For the purposes of subsection (1) the Payment Systems Regulator proposes to take a “relevant action” if it—
 - (a) proposes to impose a generally applicable requirement, or
 - (b) proposes to make changes to its general policies and practices.
- (5) For the purposes of subsection (3) a duty to consult applies in respect of a relevant action if—
 - (a) the duty imposed by section 104 to publish a draft of a proposed requirement applies in respect of the action, or
 - (b) any other duty (whether or not imposed by a provision of this Act) to publish the proposal to take the action in question applies.
- (6) The requirement imposed by subsection (2) must be carried out before the duty to consult in respect of the relevant action is carried out.
- (7) Subsection (8) applies in a case where a notice under subsection (2) is not given because of subsection (3).
- (8) The Payment Systems Regulator must give written notice to the Treasury of the relevant action it has taken as soon as reasonably practicable after taking it if it appears to the Regulator that there is a material risk that the action is incompatible with an international trade obligation.
- (9) In this section “international trade obligation” means an obligation of the United Kingdom that relates to financial services or markets under—
 - (a) a free trade agreement, as defined by section 5(1) of the Trade Act 2021, or
 - (b) the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994.”

9 In section 110(1) (interpretation), at the appropriate place insert—

““generally applicable requirement” has the meaning given by section 104(1);”.

10 In section 143 (orders and regulations: Parliamentary control), in subsection (2), after paragraph (b) insert—

- “(ba) regulations under section 102B (matters to consider when imposing generally applicable requirements);
- “(bb) regulations under section 104F (power to require imposition of generally applicable requirements);”.

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- 11 In Schedule 4 (the Payment Systems Regulator), after paragraph 7(2)(b) insert—
- “(ba) set out any engagement with a statutory panel established under section 103(3),
 - (bb) set out how the Regulator has complied with the statement of policy on panel appointments prepared under section 104I in relation to the process for making appointments and the matters considered in determining who is appointed.”.

- 12 In Schedule 4, after paragraph 7 insert—

“Other reports

- 7A (1) The Treasury may (subject to this paragraph) at any time by direction require the Regulator to publish a report containing information about such matters as are specified in the direction.
- (2) The Treasury may give a direction under this paragraph requiring information to be published only if the Treasury consider that—
- (a) the information is reasonably necessary for the purpose of reviewing and scrutinising the discharge of the Regulator’s functions, and
 - (b) other available information is not sufficient to meet that purpose.
- (3) Subject to sub-paragraph (4), the Regulator must publish a report prepared under a direction given under this paragraph in such manner, and within such period, as the direction may require.
- (4) Nothing in this paragraph requires the inclusion in the report of any information whose publication would be against the public interest.
- (5) A direction under this paragraph may not—
- (a) require a report to be published more than once in each quarter;
 - (b) require the publication of information that is confidential information as defined by section 91(2).
- (6) The Treasury must consult the Regulator before giving a direction under this paragraph.
- (7) In exercising the power under this paragraph, the Treasury must have regard to the desirability of minimising any adverse effect that the preparation of the report required in accordance with the direction may have on the exercise by the Regulator of any of its other functions.
- (8) The Treasury must—
- (a) lay before Parliament a copy of a direction given under this paragraph, and
 - (b) publish the direction in such manner as the Treasury think fit.
- (9) A direction under this paragraph may be varied or revoked by the giving of a further direction.”

- 13 In Schedule 4, after paragraph 14 insert—

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“Engagement with Parliamentary Committees

- 14A (1) This paragraph applies where the Regulator issues a relevant consultation.
- (2) For the purposes of this paragraph the Regulator issues a relevant consultation if it—
- (a) publishes proposed generally applicable requirements under section 104,
 - (b) publishes a proposal under a duty imposed by another provision of this Act or by any other enactment, or
 - (c) publishes other proposals about the exercise of any of its general functions.
- (3) The Regulator must, as soon as reasonably practicable after issuing the consultation, notify in writing the chair of each relevant Parliamentary Committee that the consultation has been issued.
- (4) The notification must specify the parts of the consultation (if any) that address the ways in which the proposals subject to consultation—
- (a) advance the Regulator’s payment systems objectives,
 - (b) demonstrate that the Regulator has had regard to the regulatory principles in section 53 when preparing the proposals, and
 - (c) engage with matters to which the Regulator must have regard under regulations made under section 102B.
- (5) The notification must also specify any other part of the consultation which the Regulator considers should be drawn to the attention of the relevant Parliamentary Committees.
- (6) References in this paragraph to the relevant Parliamentary Committees are references to—
- (a) the Treasury Committee of the House of Commons,
 - (b) the Committee of the House of Lords which—
 - (i) is charged with responsibility by that House for the purposes of this paragraph, and
 - (ii) has notified the Regulator that it is a relevant Parliamentary Committee for those purposes, and
 - (c) the Joint Committee of both Houses which—
 - (i) is charged with responsibility by those Houses for the purposes of this paragraph, and
 - (ii) has notified the Regulator that it is a relevant Parliamentary Committee for those purposes.
- (7) References in this paragraph to the Treasury Committee of the House of Commons—
- (a) if the name of that Committee is changed, are references to that Committee by its new name, and
 - (b) if the functions of that Committee (or substantially corresponding functions) become functions of a different Committee of the House of Commons, are to be treated

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as reference to the Committee by which the functions are exercisable.

- (8) Any question arising under sub-paragraph (7) is to be determined by the Speaker of the House of Commons.
- 14B (1) This paragraph applies where—
- (a) the Regulator issues a public consultation, and
 - (b) a Committee of the House of Commons or the House of Lords, or a joint Committee of both Houses, has provided to the Regulator representations in response to the consultation.
- (2) For the purposes of this paragraph, the Regulator issues a public consultation if it publishes the draft of any proposals for the purpose of bringing them to the attention of the public (whether or not under a duty to do so imposed by an enactment).
- (3) The Regulator must give to the chair of the Committee concerned a written response to the representations.
- (4) The duty to respond imposed by sub-paragraph (3) applies only so far as the Regulator would not be under a corresponding duty to do so imposed by another enactment.
- (5) The Regulator is not required under sub-paragraph (3) to provide any information whose publication would in the opinion of the Regulator be against the public interest.”