Think Ahead ACCA

Technical factsheet

Payment Services Regulations 2017

What are the Payment Services Regulations?

The Payment Services Regulations 2017 (PSRs 2017) came into force on 13 January 2018 and are now the main piece of legislation governing payment services in the UK. PSRs 2017 bring the European Payments Law, known as PDS2 (*second Payments Directive*), into UK law.

The main aims of PSRs 2017 are to:

- bring regulation up to date with developments in the market for payment services
- increase innovation and improve market access for payment service providers
- drive down the cost of services
- make payments safer and more secure
- improve consumer protection.

What is a payment service?

In order to understand whether you are offering a payment service and are therefore bound by PSRs 2017, you need to consider the type of activity being undertaken.

Examples of payment services are:

- payments of cash into a bank account (or via an ATM)
- withdrawals of cash from bank accounts
- creating direct debits and debit card payments, and transferring e-money
- credit transfers such as standing orders and BACS/CHAPS payments
- credit card payments and debit card payments
- card issuing
- card services
- firms that provide users with an electronic dashboard where they can view information from various payment accounts in a single place

- firms that use account data to provide users with personalised comparison services supported by the presentation of account information
- firms that, on a user's instruction, provide information from the user's various payment accounts to both the user and third-party service providers, such as financial advisers or credit reference agencies.

These services will often be a *primary* function of the business (banks and building societies as examples).

What does PSRs 2017 mean for accountants?

The regulations should make your life easier. In the era of cloud storage, smartphones and instant transactions, trying to chase clients for data, often in hard-copy, seems archaic and leads to stress all round. PSRs 2017 should help to avoid the regular headache of both client and accountant feeling at times unable to provide information as required.

PSRs 2017 should assist you in how you manage your client data. The rules will introduce two new players into the world of financial services: account information service providers and payment information service providers. The former will be able to access and analyse bank account details, while the latter will be responsible for initiating payments on behalf of consumers.

Much of the focus is on access to accounts, which will enable, when authorised by businesses, the sharing of transactions data currently held by financial institutions with regulated third parties. This access to financial data under PSRs 2017 has the potential to change the financial landscape and the ways businesses interact with their providers. To bring this to life, any business currently using a digital online banking solution may in the future not only have the choice of proprietary banking digital solutions but also third-party solutions to view transactions and balances and initiate payments.

As banking data is the source for any accounting or bookkeeping work, having open access will save you time and ensure that you do not need to chase your clients for information. This could mean no more paper, no more spreadsheets and no more manually inputting information from bank statements and copy ledgers!

Why were PSRs 2017 introduced?

The high-level aims of PSRs 2017 are summarised as follows:

- Opening up the financial services industry to provide more choice for users of payment systems and to ease the legitimate movement of monies across the European Economic Community.
- Protecting consumers from card charges. Additional fees on top of the principle sum were common in the hotel and aviation industry and are now illegal.
  Note: HMRC is no longer accepting payments via credit card, as it is unable to pass on the charges to the payee.
- Assisting victims of fraud. If your debit card is lost or stolen and then used to buy something, and you report the unauthorised transactions without undue delay, your debit card provider should refund you immediately. PSRs 2017 can also help if there is a transaction on your debit account that you didn’t authorise. For example, if your debit card has not been lost or stolen and someone else uses the card details to buy something (if, for example, a card is cloned, your account data is lost in a data breach, or someone uses details you gave to a retailer when buying an item over the phone or online), then you should be refunded in full as long as you report the unauthorised transaction promptly.
- Enhancing security requirements – ensuring two or more requirements before access, such as pin, memorable phrase, fingerprint, voice recognition and/or facial scan.

Do practices require authorisation or registration under PSRs 2017?

Not necessarily. You will only be providing payment services when you carry out one or more of the activities specified by the Financial Conduct Authority (FCA) as a regular occupation or business activity, and not merely as ancillary to another business activity. While the FCA does not specifically refer to accountancy firms in its exclusions, it is anticipated that standard accountancy services will not fall foul of PSRs 2017.

Can I pay HMRC for a client?

You will need to consider how regularly you are carrying out this transaction. Agents who collect payments from their clients and then pay HMRC through the agent bank account could be acting unlawfully as they may require authorisation by the FCA.

Payroll and pension payments by their very nature represent a 'recurring payments requirement' and therefore count as a payments service. They differ from a one-off payment that an accountant might make – for example, a repayment of overpaid tax for a client, which they pay through their client money account.

A payment account is defined in regulation 2 of PSRs 2017 as 'an account held in the name of one or more payment service users which is used for the execution of payment transactions'.

When determining whether or not an account is a payment account, it is appropriate to focus on its underlying purpose. To establish this, it is necessary to consider a number of factors, including:

- the purpose for which the account is designed and held
- the functionality of the account (the greater the scope for carrying out payment transactions on the account, the more likely it is to be a payment account).

If you are regularly accepting payments for clients and passing those onto HMRC (and/or others at their request) as part of your underlying service/business, you may wish to take further advice as to whether you need to be registered under PSRs 2017.

If you have concerns as to the regular nature of your payments and you are not authorised by the FCA, it is appropriate to take advice on the nature of your payment process.

Can I be paid by card?

The FCA clarified that the simple act of accepting payment by way of debit card or credit card for supply of your own goods or services does not generally amount to the provision of the service of execution of payment transactions through a payment card. For instance, where an account accepts payment from a customer using the customer's payment card, it is not providing a payment service to the customer but simply accepting payment for the price of the accountancy services. It is merely a payment service user receiving payment from the customer. In this instance, the firm providing the merchant that is enabling the accountancy practice to process the card transaction and receive payment is providing a payment service.

Can I be paid by direct debit?

We would advise caution and that you seek further advice. Regulation 2 of PSRs 2017 refers to '*a payment service for debiting the payer's payment account where a payment transaction is initiated by the payee on the basis of consent given by the payer to the payee, to the payee's payment service provider or to the payer's own payment service provider*'.

Consumers have also been afforded a new suite of protections regarding direct debits in accordance with PSRs 2017, which may make their use for all but the most sophisticated practices (and where suitable advice has been received) ill advised.

Will it ensure I am paid quicker by my customers?

Possibly. If you offer one of the many new instant payment methods (such as InstaPay and SagePay) and send your client e-invoices, it is possible for customers to pay you nigh on instantaneously without the need to login to their banking provider direct and/or pay you via cheque or other bank transfer.

Anything else to consider?

PSRs 2017 and the implementation of 'open banking' in particular will allow the savvy accountant to create systems that automate the vast majority of their workload, enabling you to build better client relationships, faster transactions and ultimately understand a client's true financial picture quicker than ever.

The nine biggest UK banks have been required to release application programming interfaces that will enable third-party providers – known as AISPs (account information service providers) and PISPs (payment initiation service providers) – to access bank accounts and create entirely new, independent services.

The automated era we have been forever promised may well be just around the corner.

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