

## Finalised guidance

# FG16/7 – Payment Accounts Regulations 2015

## Regulation 13 (packaged accounts)

August 2016

### Introduction

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1. This guidance is given under regulation 40 of the Payment Accounts Regulations 2015 (PARs). Its purpose is to clarify our expectations of payment service providers (PSPs) in relation to the application of regulation 13 of the PARs on packaged accounts. The guidance is designed to shed light on particular aspects of this regulation, but it is essential that PSPs refer to the text of regulation 13.
2. Guidance is not binding. Accordingly, we will not take supervisory or enforcement action against a PSP merely because it has not followed this guidance. There is also no presumption that departing from this guidance is indicative of a breach of the PARs. If a person acts in accordance with this guidance in the circumstances contemplated by it, we will proceed on the basis that the person has complied with the aspects of the Regulations to which the guidance relates.

### Background

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3. One of the objectives of the Payment Accounts Directive (PAD) is to improve transparency and comparability of fee information about payment accounts. The European legislature acknowledges that packaged accounts can be beneficial for consumers, for example by providing cost savings and increasing choice, but is also concerned that they may '*reduce transparency and comparability of prices, limit purchase options for consumers and negatively impact upon their mobility*'.<sup>1</sup>

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<sup>1</sup> Recital 24 of PAD.

4. With these objectives of transparency and comparability in mind, Article 8 of PAD introduces certain disclosure requirements which apply when a payment account is offered to a consumer as part of a package. These requirements have been transposed into UK law by regulation 13 of the PARs.

### Scope of regulation 13

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5. Regulation 13 applies where a payment account is offered to a consumer as part of a package together with another product or service which is not linked to a payment account.
6. The packages to which this provision applies are generally referred to in the UK as 'packaged accounts' or 'packaged bank accounts', although the scope of regulation 13 is not necessarily synonymous with other definitions or notions of packaged accounts. The other products or services in these packages are often insurances, for example travel insurance or mobile phone insurance.
7. However, neither the PARs nor PAD limit the meaning of 'products and services' to insurance.<sup>2</sup> It is also not relevant to this meaning whether the product or service is regulated or not. It is therefore possible for the packaging of non-insurance products and services with a payment account to trigger the disclosure requirements of regulation 13.
8. Regulation 13 is not limited to packages for which the PSP charges the consumer a fee.
9. Her Majesty's Treasury (the Treasury) provided some clarifications in relation to the intended scope of regulation 13 in its [consultation paper on draft Payment Account Regulations](#)<sup>3</sup> in June 2015, and in its [consultation response paper](#)<sup>4</sup> in November 2015:
  - The disclosure requirement only applies where the additional product/service is available from the same PSP. This means that there is no requirement to provide consumers with any information on products/services offered by other providers, including those which are separate entities in the same corporate group.
  - Regulation 13 applies to sales of packaged accounts which take place after the entry into force of the PARs. There is no requirement to disclose information to existing customers in respect of additional products/services in packages purchased before the entry into force of the PARs.
10. Our understanding of regulation 13 is consistent with these Treasury clarifications.

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<sup>2</sup> Recital 24 of PAD refers to 'financial advice' as an example of products and services not linked to a payment account that might be offered in a package with a payment account.

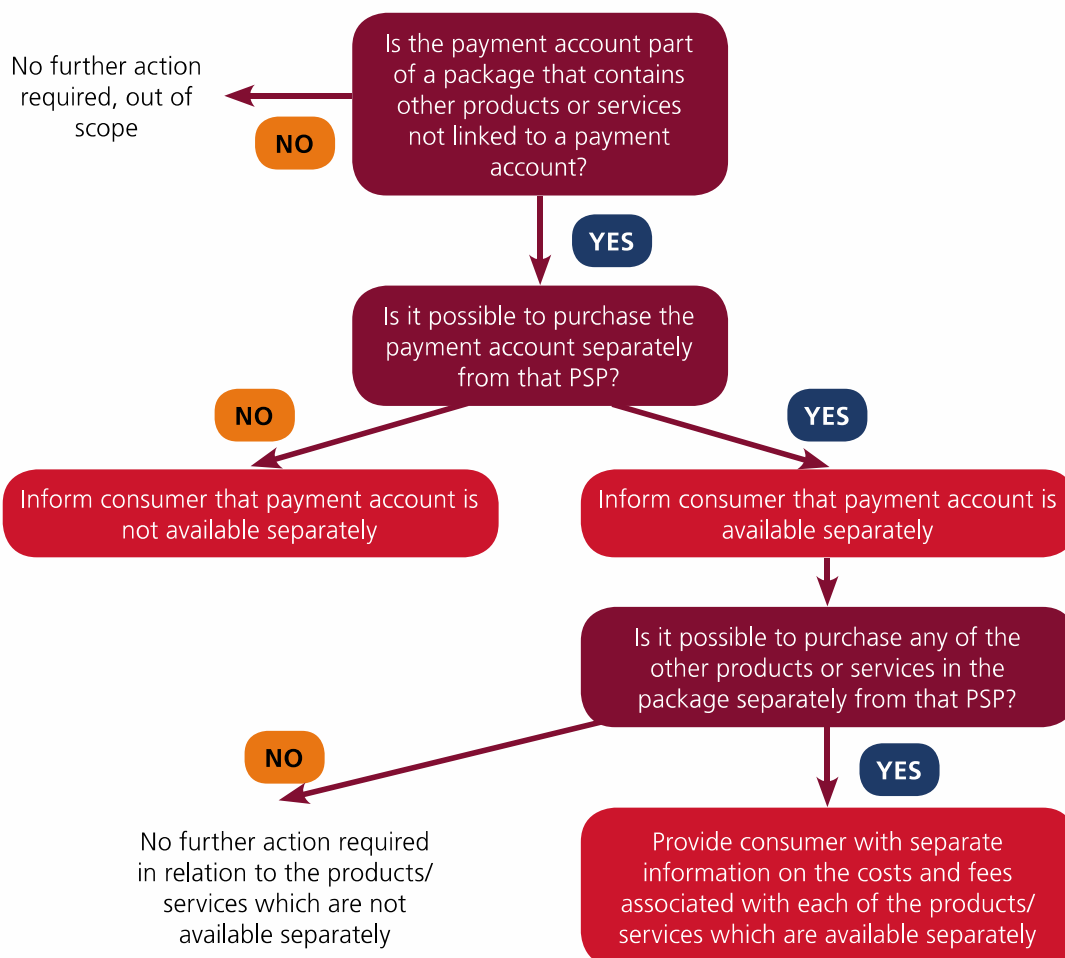
<sup>3</sup> See section 2.3.

<sup>4</sup> See paragraphs 28 to 40.

**Disclosure requirements under regulation 13**

11. Regulation 13(1) provides that where a PSP offers a payment account as part of a package together with a product or service which is not linked to a payment account, the PSP must inform the consumer whether or not it is possible to purchase the payment account separately from that same PSP.
12. If it is not possible to purchase the payment account separately from that PSP, then regulation 13(2) does not apply.
13. If it is possible to purchase the payment account separately from that PSP, then regulation 13(2) will apply. Where this is the case, the PSP should consider whether any of the other products and services in the package can be purchased separately from it. If so, the PSP must provide the consumer with separate information on the costs and fees associated with this/these other product(s) or service(s). This means that the requirement to disclose the costs and fees in regulation 13 applies only in respect of the individual products and services which are available separately from the PSP.
14. The flowchart below summarises these disclosure requirements.

**Figure 1: Flowchart of disclosure requirements under regulation 13**



### When a payment account or other product/service is available separately

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15. As set out above, regulation 13(1) requires a PSP offering packaged accounts to consider whether or not the payment account in the package is also available separately from that PSP. Similarly, regulation 13(2) requires a PSP to consider whether or not each of the other products/services in the package is available separately from it.
16. The objectives of the disclosure requirement are to improve transparency and comparability.<sup>5</sup> The requirement should therefore help consumers to decide whether to purchase either the package in question or some/all of the products separately. It should also enable consumers to compare the products offered by different providers. In order not to undermine this purpose, we would not expect PSPs to take an unduly narrow approach to assessing whether the account or other product in the package is available separately.
17. For example, we would not expect a PSP to base its comparison of two products solely on the terms and conditions applicable to each. In this way, the terms and conditions of the product offered in the package need not be identical to those of the product offered separately in order to conclude that the product in the package is available separately. A narrower approach would not be consistent with the aims of ensuring transparency and comparability of costs, and would not be in the interests of consumers.<sup>6</sup>
18. We would expect PSPs to have regard to how consumers would view the two products (i.e. the one in the package and the one available separately). Differences in the terms and conditions on which the two products are offered, which from the perspective of the consumer are minor, are unlikely to prevent the payment account or other product/service in the package from being available separately.
19. We suggest two steps which PSPs could find helpful when identifying whether the account or other product in the package is the same as the one offered separately:
  - Consider which features of the product are likely to be the most important from a consumer perspective.
  - Compare the most important features of the two products. Not every difference between the features of two products will be significant enough to conclude that the products are not the same. If there are differences, PSPs will need to take a view as to whether they – either individually or collectively – are sufficiently significant from the perspective of consumers as to render the two products not the same.

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<sup>5</sup> See recital 24 of PAD.

<sup>6</sup> This is consistent with the view expressed by the Treasury in paragraph 37 of its document [‘Implementation of the EU payment accounts directive: Consultation response’](#), 16 November 2015.

## Disclosure of costs and fees

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20. Where the payment account in the package is available separately and one or more of the other products or services in the package is also available separately, regulation 13(2) requires the PSP to provide the consumer with separate information about the costs and fees associated with each of the other products and services available separately.
21. We would expect that PSPs disclose the costs and fees to that individual consumer of purchasing the other product or service separately, i.e. on a stand-alone basis, from that PSP. This will ensure that the cost information disclosed to consumers can be used to conduct a comparison which is meaningful to that individual. We believe that this reflects the objectives of improved transparency and comparability of costs.
22. We would also expect PSPs to have regard to the purpose of the disclosures in relation to the timing and method of provision of this information.<sup>7</sup>
23. When providing the information on costs and fees to consumers, firms authorised under FSMA must also comply with our Principles for Businesses, and the rules and guidance contained in BCOBS. In particular, we would remind firms of their obligations under Principles 6 and 7, which are reinforced by the rules and guidance contained in chapter 2 of the Banking: Conduct of Business sourcebook (BCOBS 2). Principles 6 and 7 are set out below:

**Principle 6: Customers' interests**

A firm must pay due regard to the interests of its customers and treat them fairly.

**Principle 7: Communications with clients**

A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

24. We would also remind all PSPs that the Consumer Protection from Unfair Trading Regulations 2008, which protect consumers from unfair or misleading trading practices, also apply alongside the PARs.

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<sup>7</sup> Recital 9 of PAD: 'In order to support effective and smooth financial mobility in the long term, it is vital to establish a uniform set of rules to tackle the issue of low customer mobility [...]. Also, transparent fee information and switching possibilities [...] will allow Union citizens to move and shop around more easily within the Union [...]'.