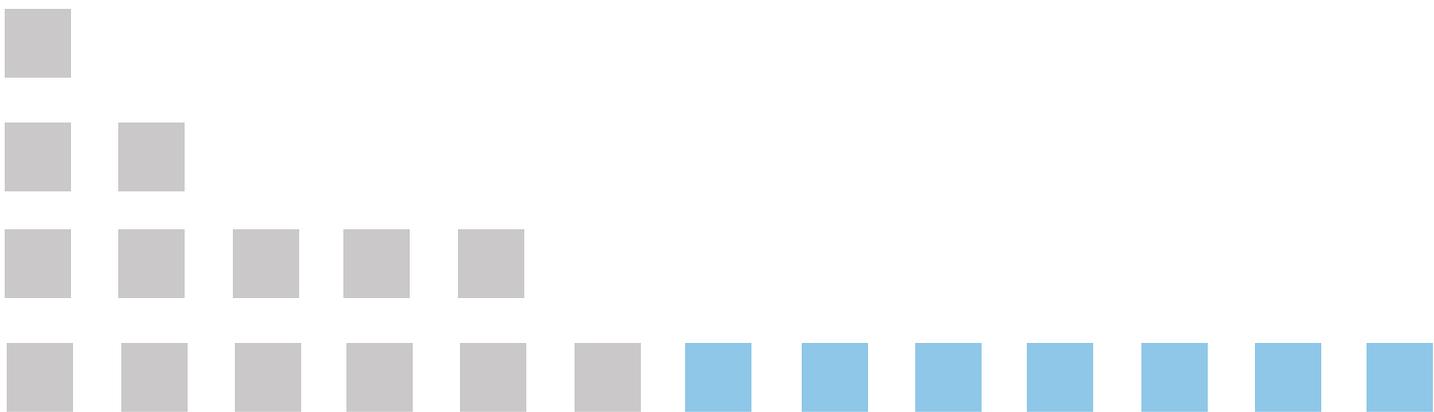


# Payments Account Directive



# Payments account directive: assessment of accounts

The information below can be used as a guide by PSP's to assess whether an account falls within the definition of a 'payments account.'

In considering which accounts are "payment accounts" under the Financial Services (Payment Accounts) Regulations ("PARs"), all accounts of the payment services provider ("PSP") should be considered, not only 'current accounts.'

The Payment Accounts Directive defines a payment account as follows:

*"payment account" means an account held in the name of one or more consumers through which consumers are able to place funds, withdraw cash and execute and receive payment transactions to and from third parties, including the execution of credit transfers, but does not include any of the following types of account provided that the account is not used for day-to-day payment transactions: savings accounts; credit card accounts where funds are usually paid in for the sole purpose of repaying a credit card debt; current account mortgages or e-money accounts."*<sup>1</sup>

Accounts that fall within scope have to meet various criteria including who is the account holder, the functionalities available on the account and the type of account. The following considerations may be useful, in determining whether an account can be considered a payment account.

## **Consumer accounts**

Accounts which are not available to consumers fall outside the scope of the PARs, such as accounts for small or medium sized enterprises (SMEs).

## **Functionalities**

In order to fall within the definition of a 'payment account,' an account must have all of the following functionalities, where an account holder is able to:

place funds in the account

- withdraw cash from the account
- execute payment transactions to third parties, including credit transfers
- receive payment transactions from third parties

An account that does not provide *all* of the above functionalities does not fall within scope of the PARs, and no further assessment is needed.

## **Type of account**

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<sup>1</sup> FG 16/6 – Payment Accounts regulations 2015 – Definition of a 'payment account' (FCA)

The following accounts *typically* fall outside the scope of the PARs:

- savings accounts;
- credit card accounts where funds are usually paid in for the sole purpose of repaying a credit card debt;
- current account mortgages;
- e-money accounts.

If the account is *not* one of the accounts listed above, it would likely be considered a payment account for the purposes of the PARs, assuming it offers the functionalities.

If the account does fall within one of the four listed above, it would fall within the definition of a payment account if, in addition to providing all of the functionalities mentioned above, it is used for day to day transactions. See below for a number of considerations, which may aid a PSP to determine whether an account is used for 'day to day payments.'

#### ***'Day to day payment' transactions***

In assessing whether an account is used for day to day transactions, PSPs may find it helpful to consider features, such as<sup>2</sup>:

- the purpose for which the account is designed and held out;
- the extent to which the consumers holding the account use the account's payment service functionalities in practice;
- the types of payment transactions carried out by the consumers holding the account, i.e. whether direct debits for utility bills or a standing order for the payment of rent are paid out of the account, as these may be indicative of its use for day-to-day transactions;
- the types of payment instrument, if any, available on the account.

See Annex 1 below for a flowchart highlighting the above criteria.

\*Please note that this guide is not to be construed as legal advice on the interpretation of legislation; we recommend that you seek legal advice in order to ensure that you comply with all applicable requirements in Gibraltar law.

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<sup>2</sup> FG 16/6 – Payment Accounts regulations 2015 – Definition of a 'payment account' (FCA)

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