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## STATUTORY INSTRUMENTS

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# 2017 No. 752

## The Payment Services Regulations 2017

### PART 11

#### General

VALID FROM 13/10/2017

#### *Transitional and saving provisions*

VALID FROM 13/01/2018

#### **Saving of Payment Services Regulations 2009**

**149.** Notwithstanding the revocation of the Payment Services Regulations 2009 by regulation 157 (revocations), those Regulations continue to apply in relation to services provided before 13th January 2018.

#### **Transitional and saving provisions: authorised payment institutions**

**150.**—(1) Where a person provides payment services before 13th January 2018 pursuant to an authorisation under the Payment Services Regulations 2009, or the national law in another EEA State transposing the first payment services directive, that person may continue to provide the services provided before that date until the end of 12th July 2018 without authorisation or registration under these Regulations or (in the case of an EEA authorised payment institution) the national law transposing the payment services directive.

(2) Where a person falls within paragraph (1) pursuant to an authorisation under the Payment Services Regulations 2009, until the end of 12th July 2018 or, if earlier, the date on which the person is authorised or registered under these Regulations—

- (a) any requirement imposed under regulation 7 of the Payment Services Regulations 2009 (imposition of variations) applies in relation to services provided pursuant to this paragraph;
- (b) regulations 10 (cancellation of authorisation), 11 (request for cancellation of authorisation) and 12 (variation of authorisation on FCA's own initiative) of these Regulations apply in relation to the person as if references to authorisation were references to entitlement to provide payment services pursuant to this paragraph; and
- (c) the person may not apply for a variation under regulation 8 of these Regulations (variation etc. at request of authorised payment institution) before it complies with paragraph (3) of this regulation.

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(3) Where a person falling within paragraph (1) has its head office and its registered office (if any) in the United Kingdom and intends to provide payment services on or after 13th July 2018 other than pursuant to regulation 152, the person must before 13th April 2018—

- (a) provide to the FCA all information specified in Schedule 2 that the person has not previously provided to the FCA; or
- (b) notify the FCA that it has previously provided all such information to the FCA.

(4) Where a person provides information or a notification in accordance with paragraph (3), the FCA must treat the information or notification as an application for authorisation made in accordance with regulation 5.

(5) In this regulation “first payment services directive” means Directive [2007/64/EC](#) of the European Parliament and of the Council of 13th November 2007 on payment services in the internal market amending Directives [97/7/EC](#), [2002/65/EC](#), [2005/60/EC](#) and [2006/48/EC](#) and repealing Directive [97/5/EC](#)<sup>M1</sup>.

#### Marginal Citations

**M1** OJ L 319 5.12.2007, p.1. The Directive is repealed with effect from 13 January 2018 by Directive 2015/2366/EU.

VALID FROM 13/01/2018

#### Transitional and saving provisions: small payment institutions

**151.**—(1) Where a person provides payment services before 13th January 2018 pursuant to a registration as a small payment institution under the Payment Services Regulations 2009—

- (a) that person may continue to provide the services provided before that date until the end of 12th January 2019 without authorisation or registration under these Regulations;
- (b) any requirement imposed under regulation 7 of the Payment Services Regulations 2009 (imposition of variations) (as applied by regulation 14 of those Regulations) applies in relation to services provided pursuant to this paragraph;
- (c) regulations 10 (cancellation of registration), 11 (request for cancellation of authorisation) and 12 (variation of authorisation on FCA's own initiative) of these Regulations, as applied by regulation 15 (supplementary provisions in relation to small payment institutions), apply in relation to the person as if references to registration were references to entitlement to provide payment services pursuant to this paragraph; and
- (d) the person may not apply for a variation under regulation 8 of these Regulations (variation etc. at request of authorised payment institution) (as applied by regulation 15) before it complies with paragraph (2) of this regulation.

(2) If a person falling within paragraph (1) intends to provide payment services on or after 13th January 2019 the person must apply for authorisation or registration under these Regulations before 13th October 2018.

(3) The FCA must exercise its powers under regulation 13(1) and (3) in order to require a person making an application under paragraph (2) to provide to the FCA any relevant information not previously provided by the applicant.

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VALID FROM 13/01/2018

**Transitional provisions: payments through network operators**

**152.**—(1) Paragraphs (2) and (3) apply where, before 13th January 2018, a person provides payment services of the type described in paragraph 1(g) of Schedule 1 to the Payment Services Regulations 2009 which are also of the type described in paragraph 1(c) of Schedule 1 to these Regulations pursuant to an authorisation under the Payment Services Regulations 2009.

(2) For the purposes of those services, the person is to be treated as an authorised payment institution and the person's entitlement to provide those services is to be treated as an authorisation granted under these Regulations.

(3) Paragraph (2) does not apply on or after 13th January 2020 unless the person has provided evidence to the FCA that it holds such own funds as are required under these Regulations before that date.

(4) Paragraphs (5) and (6) apply where, before 13th January 2018, a person provides payment services of the type described in paragraph 1(g) of Schedule 1 to the Payment Services Regulations 2009 which are also of the type described in paragraph 1(c) of Schedule 1 to these Regulations, pursuant to an authorisation under national legislation in another EEA State transposing the first payment services directive.

(5) For the purposes of those services, the person is to be treated as an EEA authorised payment institution and the person's entitlement to provide those services is to be treated as an authorisation granted under such national legislation.

(6) Paragraph (5) does not apply on or after 13th January 2020 unless the person has provided evidence to its home state competent authority that it holds such own funds as are required under the payment services directive before that date.

(7) In this regulation “first payment services directive” has the meaning given in regulation 150(5).

VALID FROM 13/01/2018

**Transitional and saving provisions: general**

**153.**—(1) The FCA must include in the register a person entitled to provide payment services by regulation 150, 151 or 152 or by this regulation.

(2) Where a person is entitled to provide payment services by regulation 150, 151 or 152 or by authorisation or registration granted pursuant to an application made under regulation 151(2) or treated as having been made under regulation 150(4)—

- (a) any notification that person has given under regulation 21 (outsourcing) of the Payment Services Regulations 2009 is to be treated as a notification given under regulation 25 of these Regulations (outsourcing);
- (b) any registration of an EEA branch of that person under regulation 24 of the Payment Services Regulations 2009 (registration of EEA branch) is to be treated as registration of an EEA branch under regulation 28 these Regulations (decision following notice of intention);

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- (c) any notification that the person has given under regulation 23 (notice of intention) of the Payment Services Regulations 2009 is to be treated as a notification under regulation 27 of these Regulations (notice of intention);
- (d) any registration of an agent under regulation 29 (use of agents) of those Regulations is to be treated as registration of an agent under regulation 34 of these Regulations (use of agents).

(3) Where a person has made an application or request to the FCA under the Payment Services Regulations 2009 before 13th January 2018, and the FCA has not determined the application or request before that date, the application or request is to be treated as if it had been made under these Regulations on that date.

VALID FROM 13/01/2018

**Transitional provisions: account information services and payment initiation services**

**154.**—(1) Paragraph (2) applies to a person that—

- (a) provided account information services or payment initiation services before 12th January 2016;
- (b) continues to provide such services immediately before 13th January 2018; and
- (c) but for paragraph (2), would require a new authorisation or registration, or a variation of an authorisation, in order to continue to provide such services on and after 13th January 2018;

(2) During the period described in paragraph (3)—

- (a) the person may continue to provide the services without a new authorisation or registration, or a variation of an authorisation, in respect of the services, and
- (b) services provided as permitted by sub-paragraph (a) are to be treated for the purposes of these Regulations and the Electronic Money Regulations 2011 as if they were not account information services or payment initiation services.

(3) The period starts on 13th January 2018 and ends at the end of—

- (a) the last day of the period of 18 months starting on the date on which the regulatory technical standards adopted under Article 98 of the payment services directive come into force; or
- (b) if earlier, the date on which—
  - (i) the FCA notifies the person of its decision in relation to an application for authorisation or registration, or for variation of an authorisation, in respect of the services, or
  - (ii) the person gives the FCA notice of the withdrawal of such application.

(4) Until an account servicing payment service provider complies with the regulatory technical standards adopted under Article 98 of the payment services directive in respect of an account, the account servicing payment service provider must not abuse its non-compliance to block or obstruct the use of payment initiation services or account information services in respect of that account.

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