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STATUTORY INSTRUMENTS

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**2009 No. 209**

**FINANCIAL SERVICES AND MARKETS**

**The Payment Services Regulations 2009**

*Made - - - - 9th February 2009*  
*Laid before Parliament 9th February 2009*  
*Coming into force in accordance with*  
*regulation 1(2)*

**THE PAYMENT SERVICES REGULATIONS 2009**

PART 1

INTRODUCTORY PROVISIONS

1. Citation and commencement
2. Interpretation
3. Exemption for certain bodies

PART 2

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*The register*

4. The register of certain payment service providers

*Authorisation as a payment institution*

5. Application for authorisation as a payment institution or variation of an existing authorisation
6. Conditions for authorisation as a payment institution
7. Imposition of requirements
8. Variation etc at request of authorised payment institution
9. Determination of application for authorisation or variation of authorisation
10. Cancellation of authorisation
11. Variation of authorisation on Authority's own initiative

*Registration as a small payment institution*

12. Application for registration as a small payment institution or variation of an existing registration

*Status: This is the original version (as it was originally made).*

13. Conditions for registration as a small payment institution
14. Supplementary provisions
15. Application for authorisation as a payment institution where the financial limit is exceeded

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16. Duty to notify changes
17. Authorised payment institutions and small payment institutions acting without permission

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19. Safeguarding requirements
20. Accounting and statutory audit
21. Outsourcing
22. Record keeping

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23. Notice of intention
24. Registration of EEA branch
25. Supervision of firms exercising passport rights
26. Carrying on of Consumer Credit Act business by EEA authorised payment institutions

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27. Additional activities
28. Payment accounts and sums received for the execution of payment transactions
29. Use of agents
30. Removal of agent from register
31. Reliance
32. Duty to notify change in circumstance

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34. Disapplication of certain regulations in the case of consumer credit agreements
35. Disapplication of certain regulations in the case of low-value payment instruments

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36. Information required prior to the conclusion of a single payment service contract

37. Information required after receipt of the payment order
38. Information for the payee after execution
39. Avoidance of duplication of information

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40. Prior general information for framework contracts
41. Information during period of contract
42. Changes in contractual information
43. Termination of framework contract
44. Information prior to execution of individual payment transaction
45. Information for the payer on individual payment transactions
46. Information for the payee on individual payment transactions

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48. Charges for information
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RIGHTS AND OBLIGATIONS IN RELATION  
TO THE PROVISION OF PAYMENT SERVICES

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52. Disapplication of certain regulations in the case of consumer credit agreements
53. Disapplication of certain regulations in the case of low value payment instruments

*Charges*

54. Charges

*Authorisation of payment transactions*

55. Consent and withdrawal of consent
56. Limits on the use of payment instruments
57. Obligations of the payment service user in relation to payment instruments
58. Obligations of the payment service provider in relation to payment instruments
59. Notification of unauthorised or incorrectly executed payment transactions
60. Evidence on authentication and execution of payment transactions
61. Payment service provider's liability for unauthorised payment transactions
62. Payer's liability for unauthorised payment transaction
63. Refunds for payment transactions initiated by or through a payee
64. Requests for refunds for payment transactions initiated by or through a payee

*Execution of payment transactions*

65. Receipt of payment orders
66. Refusal of payment orders

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- 67. Revocation of a payment order
- 68. Amounts transferred and amounts received

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- 69. Application of regulations 70 to 72
- 70. Payment transactions to a payment account
- 71. Absence of payee's payment account with the payment service provider
- 72. Cash placed on a payment account
- 73. Value date and availability of funds

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- 74. Incorrect unique identifiers
- 75. Non-execution or defective execution of payment transactions initiated by the payer
- 76. Non-execution or defective execution of payment transactions initiated by the payee
- 77. Liability of payment service provider for charges and interest
- 78. Right of recourse
- 79. Force majeure

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*The functions of the Authority*

- 80. Functions of the Authority

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- 85. Financial penalties
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- 89. Proposal to require restitution
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102. Notice of OFT decision  
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108. Defamation  
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112. Defences  
113. Contravention of regulations 49 and 50  
114. Misleading the Authority or the OFT  
115. Restriction on penalties  
116. Liability of officers of bodies corporate etc  
117. Prosecution of offences  
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*Duties of the Authority, the Commissioners and the OFT to cooperate*

119. Duty to co-operate and exchange of information

*Actions for breach of requirements*

120. Right to bring actions

*Transitional provisions*

121. Transitional provisions: deemed authorisation  
122. Transitional provisions: requirement to be authorised as a payment institution  
123. Transitional provisions: requirement to be registered as a small payment institution  
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125. Transitional provisions: the ombudsman scheme

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*Amendments to primary and secondary legislation*

126. Amendments to primary and secondary legislation  
Signature

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SCHEDULE 1 — Payment Services

PART 1 — Payment services

1. Subject to Part 2, the following activities, when carried out...  
PART 2 — Activities which do not constitute payment services
2. The following activities do not constitute payment services—

SCHEDULE 2 — Information to be included in or with an application for authorisation

1. A programme of operations setting out, in particular, the type...
2. A business plan including a forecast budget calculation for the...
3. Evidence that the applicant holds initial capital for the purposes...
4. Where regulation 19 applies, a description of the measures taken...
5. A description of the applicant's governance arrangements and internal control...
6. A description of the internal control mechanisms which the applicant...
7. A description of the applicant's structural organisation, including, where applicable,...
8. (1) In relation to each person holding, directly or indirectly,...
9. (1) The identity of directors and persons who are or...
10. The identity of the auditors of the applicant, if any...
11. (1) The legal status of the applicant and, where the...
12. The address of the head office of the applicant.
13. For the purposes of paragraphs 4, 5 and 7, a...

SCHEDULE 3 — Capital requirements

PART 1 — Initial Capital

1. For the purposes of this Part, "initial capital" comprises the...
2. (1) An applicant for authorisation as a payment institution must...  
PART 2 — Own Funds

*Qualifying items*

3. For the purposes of this Part, "own funds" means the...
4. The items specified in paragraph 3(a) to (d) must be—...
5. Own funds are not to include guarantees provided by the...

*Deductions from own funds*

6. The deductions from own funds are— (a) own shares at...
7. Where shares in another credit institution, financial institution, insurance undertaking,...

*Limits on qualifying items*

8. (1) The limits referred to in paragraph 3 are—
9. The Authority may in temporary and exceptional circumstances direct that...
10. An authorised payment institution must not include in its own...

*Own funds requirement*

11. An authorised payment institution must hold own funds calculated in...

*Adjustment by the Authority*

12. The Authority may direct that an authorised payment institution must...
13. A direction made under paragraph 12 must be on the...
14. The Authority may make a reasonable charge for making an...

*Provision for start-up payment institutions*

15. If an authorised payment institution has not completed a full...

*Method A*

16. (1) “Method A” means the calculation method set out in...

*Method B*

17. (1) “Method B” means the calculation method set out in...

*Method C*

18. (1) “Method C” means the calculation method set out in...

*Application of accounting standards*

19. Except where this Schedule provides for a different method of...

SCHEDULE 4 — Prior general information for framework contracts

1. The following information about the payment service provider—
2. The following information about the payment service—
3. The following information about charges, interest and exchange rates—
4. The following information about communication— (a) the means of communication...
5. The following information about safeguards and corrective measures—
6. The following information about changes to and termination of the...
7. The following information about redress— (a) any contractual clause on —...

SCHEDULE 5 — Application and modification of legislation

PART 1 — Application and modification of the 2000 Act

1. Disciplinary powers
  2. The Tribunal
  3. Information gathering and investigations
  4. Auditors and actuaries
  5. Restriction on disclosure of information
  6. Insolvency
  7. Warning notices and decision notices
  8. Limitation on power to require documents
- PART 2 — Application and modification of secondary legislation
9. The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001
  10. The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

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SCHEDULE 6 — Amendments to primary and secondary legislation

PART 1 — Amendments to primary legislation

1. The 2000 Act

PART 2 — Amendments to secondary legislation

2. The Cross Border Credit Transfer Regulations 1999

3. The Consumer Protection (Distance Selling) Regulations 2000

4. The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

5. The Financial Services (Distance Marketing) Regulations 2004

6. The Money Laundering Regulations 2007

Explanatory Note