
STATUTORY INSTRUMENTS

2011 No. 99

The Electronic Money Regulations 2011

PART 1

INTRODUCTORY PROVISIONS

Citation and commencement

- 1.—(1) These Regulations may be cited as the Electronic Money Regulations 2011.
- (2) These Regulations come into force on—
 - (a) 9th February 2011 for the purposes of—
 - (i) enabling applications to become an authorised electronic money institution and for the variation of an authorisation to be made under regulation 5 and the Authority to determine such applications in accordance with regulations 6 to 9;
 - (ii) enabling applications for registration as a small electronic money institution and the variation of a registration to be made under regulation 12 and the Authority to determine such applications in accordance with regulation 13 and regulations 7 to 9 (as applied by regulation 15);
 - (iii) enabling applications for an agent to be included on the register under regulation 34 and the Authority to determine such applications in accordance with that regulation;
 - (iv) enabling the Authority to give directions as to the manner in which an application under regulation 5(1) or (2), 12(1) or (2) or 34(3) is to be made and enabling the Authority to require the applicant to provide further information in accordance with regulation 5(4), 12(4) or 34(3)(a)(iv), as the case may be;
 - (v) enabling the Authority to cancel an authorisation or registration or vary an authorisation or registration on its own initiative in accordance with regulation 10 or 11 (as applied, in the case of registration, by regulation 15);
 - (vi) requiring a person who has made an application under regulation 5(1) or (2) or 12(1) or (2) to provide information to the Authority in accordance with regulation 17 and enabling the Authority to give directions under that regulation;
 - (vii) enabling a person to make a reference to the Upper Tribunal under regulation 9(8), 10(6), 11(5), 29(4) or 34(11);
 - (viii) enabling an applicant for authorisation as an electronic money institution to give the Authority a notice of intention under regulation 28(2) and the Authority to give directions as to the manner in which such a notice is to be given and to inform the host state competent authority in accordance with regulation 28(3);
 - (ix) enabling the Authority to decide whether to register an EEA branch or to cancel such a registration under regulation 29(1);
 - (x) enabling the Authority to give directions under regulation 49 to a person whose application under regulation 5(1) or 12(1) has been granted before 30th April 2011 in respect of—

Status: Point in time view as at 13/10/2017.

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- (aa) its provision as from that date of electronic money issuance or payment services; and
- (bb) its compliance as from that date with requirements imposed by or under Parts 2 to 5 of these Regulations;
- (xi) enabling the Authority to give directions under paragraph 8, 10, 13(a), 15 or 16 of Schedule 2 to a person whose application under regulation 5(1) or 12(1) has been granted before 30th April 2011;
- (xii) requiring a person whose application under regulation 5(1), 12(1) or 34(3) has been granted before 30th April 2011 to provide information to the Authority in accordance with regulation 37 and enabling the Authority to give directions under that regulation;
- (xiii) regulations 30, 47, 59 to 61, 66 to 71, 74 and 78;
- (xiv) regulation 62 in respect of paragraphs 2, 6 and 8 to 11 of Schedule 3;
- (xv) regulation 79 in respect of paragraphs 2, 18 and 19(g) of Schedule 4; and
- (b) 30th April 2011 for all other purposes.

Interpretation

2.—(1) In these Regulations—

“the 2000 Act” means the Financial Services and Markets Act 2000 ^{M1};

[^{F1}“account information service” means an online service to provide consolidated information on one or more payment accounts held by the payment service user with another payment service provider or with more than one payment service provider, and includes such a service whether information is provided—

- (a) in its original form or after processing;
- (b) only to the payment service user or to the payment service user and to another person in accordance with the payment service user's instructions;]

“agent” means a person who provides payment services on behalf of an electronic money institution;

“authorised electronic money institution” means—

- (a) a person included by the Authority in the register as an authorised electronic money institution pursuant to regulation 4(1)(a); or
- (b) a person deemed to have been granted authorisation by the Authority by virtue of regulation 74;

“the Authority” means the [^{F2}Financial Conduct Authority];

“average outstanding electronic money” means the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month;

^{F3}
...

[^{F4}“the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 relating to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC;

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“the capital requirements regulation” means Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012]

“consumer” means an individual who is acting for purposes other than a trade, business or profession;

“credit institution” has the meaning given in [^{F5}Article 4(1)(1) of the capital requirements regulation] and includes a branch of the credit institution within the meaning of [^{F6}Article 4(1) (17) of that regulation] which is situated within the EEA and which has its head office in a territory that is outside the EEA in accordance with [^{F7}Article 47 of the capital requirements directive];

“credit union” means a credit union within the meaning of—

(a) the Credit Unions Act 1979 ^{M2}; or

(b) the Credit Unions (Northern Ireland) Order 1985 ^{M3};

“decision notice” and “warning notice” have the same meaning as in the 2000 Act;

“distributor” means a person who distributes or redeems electronic money on behalf of an electronic money institution but who does not provide payment services on its behalf;

“the EEA” means the European Economic Area;

“EEA agent” means an agent through which an authorised electronic money institution, in exercise of its passport rights, provides payment services in an EEA state other than the United Kingdom;

“EEA authorised electronic money institution” means a person authorised in an EEA state other than the United Kingdom to issue electronic money and provide payment services in accordance with the electronic money directive;

“EEA branch” means a branch established by an authorised electronic money institution, in the exercise of its passport rights, to issue electronic money, provide payment services, distribute or redeem electronic money or carry out other activities in accordance with these Regulations in an EEA state other than the United Kingdom;

“electronic money” means electronically (including magnetically) stored monetary value as represented by a claim on the electronic money issuer which—

(a) is issued on receipt of funds for the purpose of making payment transactions;

(b) is accepted by a person other than the electronic money issuer; and

(c) is not excluded by regulation 3;

“the electronic money directive” means Directive 2009/110/EC^{M4} of the European Parliament and of the Council of 16th September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC^{M5} and 2006/48/EC and repealing Directive 2000/46/EC^{M6};

“electronic money institution” means an authorised electronic money institution or a small electronic money institution;

“electronic money issuer” means any of the following persons when they issue electronic money—

(a) authorised electronic money institutions;

(b) small electronic money institutions;

(c) EEA authorised electronic money institutions;

(d) credit institutions;

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- (e) the Post Office Limited;
- (f) the Bank of England, the European Central Bank and the national central banks of EEA states other than the United Kingdom, when not acting in their capacity as a monetary authority or other public authority;
- (g) government departments and local authorities when acting in their capacity as public authorities;
- (h) credit unions;
- (i) municipal banks;
- (j) the National Savings Bank;

[^{F1}“European Banking Authority” means the European Banking Authority established by Regulation (EU) 1093/2010 of the European Parliament and of the Council of 24th November 2010 establishing a European Supervisory Authority (European Banking Authority);]

“home state competent authority” means the competent authority designated in accordance with Article 3 of the electronic money directive as being responsible for the authorisation and prudential supervision of an EEA authorised electronic money institution which is exercising (or intends to exercise) its passport rights in the United Kingdom;

“host state competent authority” means the competent authority designated in accordance with Article 3 of the electronic money directive in an EEA state in which an authorised electronic money institution exercises (or intends to exercise) its passport rights;

“initial capital” has the meaning given by paragraph 1 of Schedule 2;

“the money laundering directive” means [^{F8}Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing];

“municipal bank” means a company which, immediately before 1st December 2001, fell within the definition in section 103 of the Banking Act 1987 ^{M7};

[^{F9}“own funds” means own funds as defined in Article 4(1)(118) of the capital requirements regulation, and “Common Equity Tier 1 capital”, “Tier 1 capital” and “Tier 2 capital” have the same meanings as in that regulation;]

“parent undertaking” has the same meaning as in the Companies Acts (see section 1162 of, and Schedule 7 to, the Companies Act 2006 ^{M8});

“passport right” means the entitlement of a person to establish a branch or provide services in an EEA state other than that in which they are authorised to provide electronic money issuance services—

- (a) in accordance with the Treaty on the Functioning of the European Union as applied in the EEA; and
- (b) subject to the conditions of the electronic money directive;

“payment account” means an account held in the name of one or more payment service users which is used for the execution of payment transactions;

[^{F1}“payment initiation service” means a service to initiate a payment order at the request of the payment service user with respect to a payment account held at another payment service provider;]

“payment instrument” means any—

- (a) personalised device; or
- (b) personalised set of procedures agreed between the payment service user and the payment service provider;

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“payment services” has the same meaning as in the Payment Services Regulations [^{F10}2017];

[^{F11}“payment service provider” has the meaning given in regulation 2(1) of the Payment Services Regulations 2017;]

“payment service user” means a person when making use of a payment service in the capacity of a payer or payee, or both;

[^{F11}“the payment services directive” means Directive 2015/2366/EU of the European Parliament and of the Council of 25th November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC;]

“payment system” means a funds transfer system with formal and standardised arrangements and common rules for processing, clearing and settlement of payment transactions;

“payment transaction” has the meaning given in Article 4(5) of the payment services directive;

“qualifying holding” has the meaning given in [^{F12}Article 4(1)(36) of the capital requirements regulation] ;

“the register” means the register maintained by the Authority under regulation 4;

[^{F11}“sensitive payment data” means information, including personalised security credentials, which could be used to carry out fraud; but in relation to account information services and payment initiation services does not include the name of an account holder or an account number;]

“small electronic money institution” means a person included by the Authority in the register pursuant to regulation 4(1)(b);

“subsidiary undertaking” has the same meaning as in the Companies Acts (see section 1162 of, and Schedule 7 to, the Companies Act 2006).

(2) In these Regulations references to amounts in euro include references to equivalent amounts in another currency.

(3) Unless otherwise defined, expressions used in these Regulations which are also used in the electronic money directive have the same meaning as in that directive.

(4) Expressions used in a modification to a provision in primary or secondary legislation applied by these Regulations have the same meaning as in these Regulations.

Textual Amendments

- F1 Words in reg. 2(1) inserted (13.8.2017 for specified purposes, 13.10.2017 for specified purposes, 13.1.2018 in so far as not already in force) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), [reg. 1\(2\)\(c\)\(iii\)\(3\)\(f\)\(i\)\(6\)](#), [Sch. 8 para. 5\(2\)\(a\)](#) (with reg. 3)
- F2 Words in reg. 2(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 196\(2\)](#)
- F3 Words in reg. 2(1) omitted (1.1.2014) by virtue of [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 75\(2\)\(a\)](#)
- F4 Words in reg. 2(1) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 75\(2\)\(b\)](#)
- F5 Words in reg. 2(1) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 75\(2\)\(c\)\(i\)](#)
- F6 Words in reg. 2(1) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 75\(2\)\(c\)\(ii\)](#)
- F7 Words in reg. 2(1) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), [reg. 1\(2\)](#), [Sch. 2 para. 75\(2\)\(c\)\(iii\)](#)

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- F8** Words in reg. 2(1) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 28(2)** (with regs. 8, 15)
- F9** Words in reg. 2(1) substituted (13.8.2017 for specified purposes, 13.10.2017 for specified purposes, 13.1.2018 in so far as not already in force) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), reg. 1(2)(c)(iii)(3)(f)(i)(6), **Sch. 8 para. 5(2)(b)** (with reg. 3)
- F10** Word in reg. 2(1) substituted (13.8.2017 for specified purposes, 13.10.2017 for specified purposes, 13.1.2018 in so far as not already in force) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), reg. 1(2)(c)(iii)(3)(f)(i)(6), **Sch. 8 para. 5(2)(c)** (with reg. 3)
- F11** Words in reg. 2(1) substituted (13.8.2017 for specified purposes, 13.10.2017 for specified purposes, 13.1.2018 in so far as not already in force) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), reg. 1(2)(c)(iii)(3)(f)(i)(6), **Sch. 8 para. 5(2)(d)** (with reg. 3)
- F12** Words in reg. 2(1) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 75(2)(d)**

Marginal Citations

- M1** 2000 c.8.
- M2** 1979 c.34.
- M3** [S.I. 1985/1205 \(N.I. 12\)](#).
- M4** OJ No L 267, 10.10.2009, p.7.
- M5** OJ No L 309, 25.11.2005, p.15.
- M6** OJ No L 275, 27.10.2000, p.39.
- M7** [1987 c.22](#); repealed by [S.I. 2001/3649](#), **article 3(1)(d)**.
- M8** 2006 c.46.

Electronic money: exclusions

3. For the purposes of these Regulations electronic money does not include—
- ^{F13}(a) monetary value stored on specific payment instruments that can be used only in a limited way and meet one of the following conditions—
- (i) allow the holder to acquire goods or services only in the issuer's premises;
 - (ii) are issued by a professional issuer and allow the holder to acquire goods or services only within a limited network of service providers which have direct commercial agreements with the issuer;
 - (iii) may be used only to acquire a very limited range of goods or services; or
 - (iv) are valid only in a single EEA State, are provided at the request of an undertaking or a public sector entity, and are regulated by a national or regional public authority for specific social or tax purposes to acquire specific goods or services from suppliers which have a commercial agreement with the issuer;
- (b) monetary value that is used to make payment transactions resulting from services provided by a provider of electronic communications networks or services, including transactions between persons other than that provider and a subscriber, where those services are provided in addition to electronic communications services for a subscriber to the network or service, and where the additional service is—
- (i) for purchase of digital content and voice-based services, regardless of the device used for the purchase or consumption of the digital content, and charged to the related bill; or
 - (ii) performed from or via an electronic device and charged to the related bill for the purchase of tickets or for donations to organisations which are registered or

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recognised as charities by public authorities, whether in the United Kingdom or elsewhere,
provided that the value of any single payment transaction does not exceed £40, and the cumulative value of payment transactions for an individual subscriber in a month does not exceed £240.]

Textual Amendments

F13 Reg. 3(a)(b) substituted (13.8.2017 for specified purposes, 13.10.2017 for specified purposes, 13.1.2018 in so far as not already in force) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), reg. 1(2)(c)(iii)(3)(f)(i)(6), **Sch. 8 para. 5(3)** (with reg. 3)

[^{F14}Notification of use of limited network exclusion

3A.—(1) If, in any period of 12 months, the total value of payment transactions made with monetary value falling within regulation 3(a)(i) to (iii) issued by a person (“issuer”) exceeds 1 million euros, the issuer must notify the Authority.

(2) The period of 12 months referred to in paragraph (1) does not include any period in respect of which a notification has already been made under paragraph (1).

(3) A notification under paragraph (1) must—

- (a) include a description of the transactions made; and
- (b) specify the exclusion by virtue of which the monetary value is not electronic money.

(4) Notifications and information provided to the Authority under this regulation must be given—

- (a) within such time as the Authority may direct after the end of the period of 12 months referred to in paragraph (1); and
- (b) in such form or verified in such manner as the Authority may direct,

and different directions may be given in relation to different notifications or information or categories of notification or information.

(5) When the Authority receives a notification under this regulation, the Authority must assess whether the notified monetary value falls within regulation 3(a)(i) to (iii).

(6) If the Authority considers that any part of the notified monetary value does not fall within regulation 3(a)(i) to (iii)—

- (a) the Authority must notify the issuer, and
- (b) the issuer may refer the matter to the Upper Tribunal.]

Textual Amendments

F14 Regs. 3A, 3B inserted (13.8.2017 for specified purposes, 13.10.2017 for specified purposes, 13.1.2018 in so far as not already in force) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), reg. 1(2)(c)(iii)(3)(f)(i)(6), **Sch. 8 para. 5(4)** (with reg. 3)

[^{F14}Notification of use of electronic communications exclusion

3B.—(1) If a person (“issuer”) issues, or intends to issue, monetary value falling within regulation 3(b), the service provider must—

- (a) notify the Authority, and

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- (b) include with such notification a description of the transactions for which the monetary value is intended to be used.
- (2) The issuer must provide a notification under paragraph (1)—
 - (a) if the issuer started to issue the monetary value before 13th January 2018, on or before that date, or
 - (b) otherwise, before the issuer starts to issue the monetary value.
- (3) The issuer must also provide to the Authority, at such times as the Authority may direct, an annual audit opinion testifying that the transactions for which the monetary value is used comply with the limits mentioned in regulation 3(b).
- (4) Information provided to the Authority under this regulation must be in such form or verified in such manner as the Authority may direct.
- (5) Different directions may be given under paragraph (3) and (4) in relation to different issuers or different categories of issuers.]

Textual Amendments

F14 Regs. 3A, 3B inserted (13.8.2017 for specified purposes, 13.10.2017 for specified purposes, 13.1.2018 in so far as not already in force) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), reg. 1(2)(c)(iii)(3)(f)(i)(6), [Sch. 8 para. 5\(4\)](#) (with reg. 3)

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