

[^{F1}SCHEDULE 2A

Credit agreements

Textual Amendments

- F1** Sch. 2A inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **18(3)**

PART 1

Prohibitions and restrictions

Power to prohibit the entry into credit agreements

1.—(1) If it appears to the Authority that sub-paragraph (4) has been, or is likely to be, contravened as respects an EEA authorised electronic money institution exercising passport rights in the United Kingdom, it may by notice given to the institution in accordance with Part 2 of this Schedule impose on the institution a credit prohibition.

(2) If it appears to the Authority that a restriction imposed under paragraph 2 on an EEA authorised electronic money institution exercising passport rights in the United Kingdom has not been complied with, it may by notice given to the institution in accordance with Part 2 of this Schedule impose on the institution a credit prohibition.

(3) “A credit prohibition” means a prohibition on carrying on, or purporting to carry on, in the United Kingdom any business which consists of or includes carrying on an activity—

- (a) of the kind specified by article 36A, 36H, 39D, 39E, 39F, 39G, 60B, 60N, 89A or 89B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, and
- (b) listed in the Annex to the payment services directive or which the institution is entitled to carry on in accordance with Article 16 of that directive as applied by Article 6 of the electronic money directive.

(4) This sub-paragraph is contravened as respects an EEA authorised electronic money institution exercising passport rights in the United Kingdom if—

- (a) the institution or any of its employees, agents or associates (whether past or present), or
- (b) where the institution is a body corporate, any controller of the institution or an associate of any such controller,

does any of the things specified in sub-paragraph (5).

(5) A person does a thing specified in this sub-paragraph if the person—

- (a) commits any offence involving fraud or other dishonesty or violence;
- (b) contravenes any provision made by or under—
 - (i) the Consumer Credit Act 1974;
 - (ii) the 2000 Act, to the extent that that Act relates to any activity of the kind specified by article 36A, 36H, 39D, 39E, 39F, 39G, 60B, 60N, 89A or 89B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
 - (iii) any other enactment regulating the provision of credit to individuals or other transactions with individuals;

Status: Point in time view as at 14/02/2014.

Changes to legislation: The Electronic Money Regulations 2011, PART1 is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) contravenes any provision in force in an EEA State which corresponds to a provision of the kind mentioned in paragraph (b);
 - (d) practices discrimination on grounds of sex, colour, race or ethnic or national origins in, or in connection with, the carrying on of any business;
 - (e) engages in business practices appearing to the Authority to be deceitful or oppressive or otherwise unfair or improper (including practices that appear to the Authority to involve irresponsible lending).
- (6) A credit prohibition may be absolute or may be imposed—
- (a) for such period,
 - (b) until the occurrence of such event, or
 - (c) until such conditions are complied with,
- as may be specified in the notice given under sub-paragraph (1) or (2).
- (7) Any period, event or condition so specified may be varied by the Authority on the application of the institution concerned (for which, see paragraph 5).
- (8) A credit prohibition may be withdrawn in whole or in part—
- (a) on the initiative of the Authority, by notice served by the Authority on the institution concerned, and any such notice takes effect on such date as is specified in the notice;
 - (b) on an application submitted by the institution concerned (for which, see paragraph 5).
- (9) Where the Authority withdraws a credit prohibition and imposes a restriction under paragraph (2), the Authority may specify that the withdrawal of the credit prohibition only takes effect when the imposition of the restriction is no longer subject to review (within the meaning of section 391(8) of the 2000 Act).
- (10) For the purposes of sub-paragraph (9), whether the imposition of a restriction is open to review is to be determined in accordance with section 391(8) of the 2000 Act as if the imposition of the restriction were a matter to which a supervisory notice (within the meaning of that section) relates.
- (11) An institution contravening a prohibition imposed under this paragraph is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (12) In this paragraph—
- “associate” has the same meaning as in article 60L of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
 - “controller” has the meaning given by section 422 of the 2000 Act.
- (13) If a credit prohibition is in effect in relation to an institution, article 60JB of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 does not apply in relation to that institution.

Power to restrict the entry into credit agreements

2.—(1) In this paragraph, “restriction” means a direction that an EEA authorised electronic money institution exercising passport rights in the United Kingdom may not carry on in the United Kingdom, otherwise than in accordance with such conditions as may be specified in the direction, any business which consists of or includes carrying on an activity—

- (a) of the kind specified in article 36A, 36H, 39D, 39E, 39F, 39G, 60B, 60N, 89A or 89B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

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- (b) listed in the Annex to the payment services directive or which the institution is entitled to carry on in accordance with Article 16 of that directive as applied by Article 6 of the electronic money directive; and
 - (c) specified in the direction.
- (2) If it appears to the Authority that the situation as respects an EEA authorised electronic money institution exercising passport rights in the United Kingdom is such that the powers conferred by paragraph 1 are exercisable, the Authority may, instead of imposing a credit prohibition impose—
- (a) by notice given in accordance with Part 2 of this Schedule such restriction as appears to it desirable;
 - (b) where it has already imposed a restriction, vary the restriction on the Authority's own initiative by notice given in accordance with Part 2 of this Schedule.
- (3) The Authority may also impose a restriction by notice given in accordance with Part 2 of this Schedule if it withdraws a credit prohibition.
- (4) A restriction may be—
- (a) withdrawn on the initiative of the Authority, by notice served by the Authority on the institution concerned, and any such notice takes effect on such date as is specified in the notice;
 - (b) withdrawn or varied on an application submitted by the institution concerned (for which, see paragraph 5).
- (5) An institution contravening a restriction is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.]

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