

SCHEDULE 3

Application and modification of legislation

PART 1

Application and modification of the 2000 Act

Disciplinary powers

[^{F1}1. Sections 66 (disciplinary powers) to 70 (statements of policy: procedure) of the 2000 Act apply with the following modifications—

- (a) in section 66 omit subsections (3)(aa) to (ac), (3A) to (3D), (5A), (8) and (9); and
- (b) for section 66A substitute—

“**66A.**—(1) For the purpose of action by the FCA, a person is guilty of misconduct if, while a relevant person, the person has been knowingly concerned in a contravention of the Electronic Money Regulations 2011 by an electronic money issuer which is an electronic money institution, credit institution, credit union or municipal bank.

(2) “Relevant person” means any person responsible for the management of the electronic money issuer or, where relevant, any person responsible for the management of electronic money issuance by the electronic money issuer.”; and

- (c) in section 67—
 - (i) omit subsections (2A), (2B), (5A), (5B), (8) and (9);
 - (ii) in subsection (1) omit the words from “; and if it proposes” to the end;
 - (iii) in subsection (4) omit the words from “and if it decides” to the end; and
 - (iv) in subsection (7) omit the words “and if the regulator decides” to the end.]

Textual Amendments

F1 Sch. 3 para. 1 substituted (7.3.2016) by [The Financial Services \(Banking Reform\) Act 2013 \(Consequential Amendments\) Order 2016 \(S.I. 2016/163\)](#), arts. 1, 4

The Tribunal

2. ^{M1}Part 9 of the 2000 Act (hearings and appeals) applies in respect of references to the Upper Tribunal made under these Regulations as it applies in respect of references to the Upper Tribunal made under that Act, with the following modifications—

- (a) in section 133 ^{M2} (proceedings before Tribunal: general provision)—
 - (i) omit subsection (1)(b) and (c);
 - (ii) in subsection (2) in the definition of “relevant decision” omit “, (b) or (c)”;

[^{F2}(ⁱⁱa) for subsection (7A) substitute—

“(7A) A reference is a “disciplinary reference” for the purposes of this section if it is in respect of any of the following decisions—

- (a) a decision to publish a statement under regulation 50 of the Electronic Money Regulations 2011;

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- (b) a decision to impose a penalty under regulation 51 of those Regulations;
- (c) a decision to suspend or impose a restriction on authorisation under regulation 52 of those Regulations;
- (d) a decision to take action under section 66 of the 2000 Act as applied by those Regulations;
- (e) a decision to take action under section 345 of the 2000 Act as applied by those Regulations.”;]
- (b) in section 133A (decision and supervisory notices, etc)—
 - (i) in subsection (1) omit “, as a result of section 388(2),”; and
 - ^{F3}(ii)
- (c) in section 133B (offences)—
 - (i) omit subsection (1)(b) and (c); and
 - (ii) in subsection (4)(a) for “the statutory maximum” substitute “ level 5 on the standard scale ”.

Textual Amendments	
F2	Sch. 3 para. 2(a)(ia) inserted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 196(5)(b)
F3	Sch. 3 para. 2(b)(ii) omitted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014 (S.I. 2014/366) , arts. 1(3)(4), 18(4)(a)
Marginal Citations	
M1	Sections 132 and 137 were repealed by S.I. 2010/22 .
M2	Substituted, together with sections 133A and 133B, by S.I. 2010/22 .

^{F4}**Authority rules**

- 2A.—**(1) Section 137A of the 2000 Act applies for the purposes of these Regulations as if—
- (a) references to authorised persons were references to authorised electronic money institutions, small electronic money institutions and EEA authorised electronic money institutions;
 - (b) in subsection (1)—
 - (i) the reference in paragraph (a) to the carrying on of regulated activities were to the issuance of electronic money, and
 - (ii) the reference in paragraph (b) to the carrying on of activities which are not regulated activities were to the carrying on of activities in connection with the issuance of electronic money;
 - (c) in subsection (5)—
 - (i) references to EEA firms were to EEA authorised issuance of electronic money institutions;
 - (ii) in paragraph (a), reference to permission conferred by Part 2 of Schedule 3 to the 2000 Act were to permission conferred by regulation 29A(2) of these Regulations;
 - (iii) in paragraph (b), reference to any of the single market directives or the emission allowance auctioning regulation were to the electronic money directive;

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(c) after subsection (5) there were inserted—

“(6) The FCA may make a rule pursuant to paragraph (1) only if the FCA is also making, or has made, a rule under this section or section 137R concerning the same matter which applies to authorised persons in connection with the issuance of electronic money.”.

(2) Sections 137T (general supplementary powers) and 141A (power to make consequential amendments of references to rules) and Chapter 2 of Part 9A (rules: modification, waiver, contravention and procedural provisions) of the 2000 Act apply in relation to rules made pursuant to paragraph (1) as they do in relation to other rules made by the FCA under section 137A of the 2000 Act, subject to sub-paragraph (3).

(3) Section 138D (actions for damages) applies as if in that section subsection (6) were omitted and “private person” had the meaning given in regulation 72(3) of these Regulations.]

Textual Amendments

F4 Sch. 3 para. 2A 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(31)(a)** (with reg. 3)

Information gathering and investigations

3. ^{M3}Part 11 of the 2000 Act (information gathering and investigations) applies with the following modifications—

(a) in section 165 (^{F5}Regulator’s] power to require information: authorised persons etc)—

(i) for references to “an authorised person” substitute “ a person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011 ”;

(ii) in subsection (4) for “this Act” substitute “ the Electronic Money Regulations 2011 ”; and

(iii) in subsection (7) omit paragraphs ^{F6}(b), (c) and (d)];

^{F7}(b) in section 166 (reports by skilled persons)—

(i) in subsection (2), for paragraph (a) substitute—

“(a) a person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011 (“A”);

(ii) omit subsections (10) and (11);]

^{F8}(ba) in section 166A (appointment of skilled person to collect and update information), for each reference to an “authorised person” substitute “person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011;]

(c) in section 167 ^{M4} (appointment of persons to carry out general investigations)—

(i) in subsection (1)—

^{F9}(aa)

(bb) in paragraph (a) for “a recognised investment exchange or an authorised person or of an appointed representative” substitute “ a person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011 ”;

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- (cc) in paragraph (c) for “a recognised investment exchange or an authorised person” substitute “ a person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011 ”;
- (ii) in subsection (4)—
 - (aa) for “in relation to a former authorised person (or appointed representative)” substitute “ in relation to a person who was formerly a person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011 ”;
 - (bb) in paragraph (a) for “he was an authorised person (or appointed representative)” substitute “ it was a person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011 ”; and
 - (cc) for paragraph (b) substitute—
 - “(b) the ownership or control of a person who was formerly a person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011 at any time when it was such a person.”;
- (iii) in subsection (5) for “regulated activities” substitute “ the activity of issuing electronic money ”; ^{F10} ...
- [^{F11}(iiiia) for subsection (5A) substitute—
 - “(5A) “Investigating authority” means the FCA.”; and]
- (iv) omit subsection (6) ^{M5};
- (d) ^{M6}in section 168 (appointment of persons to carry out investigations in particular cases)—
 - (i) in subsection (1)—
 - [^{F12}(aa) before paragraph (b) insert—
 - “(ab) a person may have contravened any requirement of or imposed under the Electronic Money Regulations 2011;
 - [^{F13}(ac) an EEA authorised electronic money institution exercising passport rights in the United Kingdom may have contravened, or may be likely to contravene, a restriction or prohibition within the meaning of paragraph 3 (interpretation) of Schedule 2A to the Electronic Money Regulations 2011 (credit agreements);
 - (ad) paragraph 1(4) of that Schedule 2A (power to prohibit the entry into credit agreements) may have been contravened, or may be likely to be contravened, as respects an EEA authorised electronic institution exercising passport rights in the United Kingdom”];
 - (bb) in paragraph (b) for “, [^{F14}191F],” to the end substitute “ or 191F or under regulation 63, 64 or 66 of the Electronic Money Regulations 2011. ”;
 - (ii) for subsection (2) substitute—
 - “(2) Subsection (3) also applies if it appears to an investigating authority that there are circumstances suggesting that a person may be guilty of an offence under, or has contravened a requirement of, the Money Laundering Regulations 2007.”;
 - (iii) omit subsections (4) and (5); and
 - [^{F15}(iv) for subsection (6), substitute—

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- “(6) “Investigating authority” means the FCA.”;]
- (e) in section 169 (investigations etc in support of overseas regulator)—
- (i) in subsection (8) for “Part XXIII” substitute “ sections 348, 349^{F16}... and 352, as applied with modifications by the Electronic Money Regulations 2011 ”; and
 - (ii) in subsection (13) for “has the same meaning as in section 195” substitute “ means a competent authority designated in accordance with Article 3 of the electronic money directive ”;
- (f) in section 170 (investigations: general)—
- (i) in subsection (1) omit “or (5)”;
 - (ii) in subsection (3)(a) omit “or (4)”;
 - (iii) for subsection (10) substitute—
“(10) “Investigating authority”, in relation to an investigator, means [^{F17}the FCA].”;
- (g) in section 171 ^{M7} (powers of persons appointed under section 167), omit subsections (3A) and (7);
- (h) in subsection (4) of section 172 (additional power of persons appointed as a result of section 168(1) or (4)), omit “or (4)”;
- (i) in section 174 (admissibility of statements made to investigators)—
- (i) in subsection (2) omit “or in proceedings in relation to action to be taken against that person under section 123”;
 - (ii) in subsection (3)(a) for “398” substitute “ regulation 66 of the Electronic Money Regulations 2011 ”; and
 - (iii) in subsection (4) omit “or (5)”;
- (j) in subsection (8) of section 175 (information and documents: supplemental provisions) omit “or (5)”;
- (k) in section 176 ^{M8}(entry of premises under warrant)—
- (i) in subsection (1)—
 - (aa) omit “the Secretary of State.”; and
 - (bb) for “the first, second or third” substitute “ the first or second ”;
 - (ii) in subsection (3)(a) for “an authorised person or an appointed representative” substitute “ a person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011 ”;
 - (iii) omit subsection (4);
 - (iv) in subsection (10) omit “or (5)”;
 - (v) in subsection (11)(a) omit “87C, 87J.”; and
- (l) in subsection (5)(a) of section 177 (offences)—
- (i) for “six months” substitute “ three months ”; and
 - (ii) for “the statutory maximum” substitute “ level 5 on the standard scale ”.

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Textual Amendments

- F5** Words in Sch. 3 para. 3(a) 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(5)(c)(i)(aa)**
- F6** Words in Sch. 3 para. 3(a)(iii) 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(5)(c)(i)(bb)**
- F7** Sch. 3 para. 3(b) 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(5)(c)(ii)**
- F8** Sch. 3 para. 3(ba) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(c)(iii)**
- F9** Sch. 3 para. 3(c)(i)(aa) omitted (1.4.2013) by virtue of [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(c)(iv)(aa)**
- F10** Word in Sch. 3 para. 3(c)(iii) omitted (1.4.2013) by virtue of [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(c)(iv)(bb)**,
- F11** Sch. 3 para. 3(c)(iiia) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(c)(iv)(cc)**
- F12** Sch. 3 para. 3(d)(i)(aa) 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(5)(c)(v)(aa)**
- F13** Words in Sch. 3 para. 3(d)(i)(aa) 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(4)(b)**
- F14** Word in Sch. 3 para. 3(d)(i)(bb) 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(5)(c)(v)(bb)**
- F15** Sch. 3 para. 3(d)(iv) 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(5)(c)(v)(cc)
- F16** Word in Sch. 3 para. 3(e)(i) omitted (1.4.2013) by virtue of [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(c)(vi)**
- F17** Words in Sch. 3 para. 3(f)(iii) 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(5)(c)(vii)**

Marginal Citations

- M3** Part 11 was amended by section 18 of, and paragraphs 15, 16 and 17 of Schedule 2 to, the Financial Services Act 2010.
- M4** Amended by [S.I. 2007/126](#).
- M5** Subsection (6) was inserted by [S.I. 2007/126](#).
- M6** Amended by [S.I. 2007/126](#).
- M7** Amended by [S.I.2007/126](#).
- M8** Amended by [S.I. 2005/1433](#).

Control over electronic money institutions

4. Part 12 ^{M9} of the 2000 Act (control over authorised persons) applies with the following modifications—

(a) for references to “UK authorised person” substitute “ electronic money institution ”;

[^{F18}(aa) in section 178 for subsection (2A) substitute—

“(2A) In this Part, “the appropriate regulator” means the FCA.”;

(ab) in section 187(2)(b) omit “section 187A(3)(b) or”;

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- (ac) omit section 187A;]
- (b) in section 188 (assessment: consultation with EC competent authorities)—
 - (i) in subsections (1) and (2) after “home state regulator” insert “ or home state competent authority ”; and
 - (ii) in subsection (3) after “host state regulator” insert “ or host state competent authority ”;
- [^{F19}(ba) in section 191A omit subsection (4A);]
- [^{F20}(c) in section 191B (restriction notices)—
 - (i) omit subsection (2A);
 - (ii) after subsection (2B) insert—
 - “(2C) In a restriction notice, the FCA must direct that voting power to which the notice relates is, until further notice, not to be exercisable.”;
 - (iii) for subsection (3)(b) substitute—
 - “(b) voting power that has been exercised as a result of the acquisition is void;”];
- [^{F21}(ca) in section 191C omit subsection (2A);
- (cb) in section 191D omit subsection (1A);]
- (d) after section 191E (requirements for notices under section 191D) insert—

“191EA Direction by [^{F22}the FCA]

191EA. [^{F22}The FCA] may direct that this Part does not apply in respect of an electronic money institution which carries on business activities other than the issuance of electronic money and payment services.”;

- (e) in section 191F (offences) in subsections (8)(a) and (9)(a), for “the statutory maximum” substitute in each case “ level 5 on the standard scale ”;
- (f) in section 191G (interpretation), in subsection (1), omit the definition of “UK authorised person”; and
- (g) omit section 192 (power to change definitions of control etc.).

Textual Amendments

- F18** Sch. 3 para. 4(aa)-(ac) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(d)(i)**
- F19** Sch. 3 para. 4(ba) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(d)(ii)**
- F20** Sch. 3 para. 4(c) 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(5)(d)(iii)**
- F21** Sch. 3 para. 4(ca)(cb) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(d)(iv)**
- F22** Words in Sch. 3 para. 4(d) 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(5)(d)(v)**

Marginal Citations

- M9** Sections 178 to 191G were substituted by [S.I. 2009/534](#).

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[^{F23}Incoming firms: interventions by the Authority

4A.—(1) Part 13 of the 2000 Act (incoming firms: intervention by FCA or PRA) applies with the following modifications.

(2) References to—

- (a) “the regulator” or “the appropriate regulator” are to be read as references to the Authority;
- (b) requirements imposed by or under the 2000 Act are to be read as references to requirements imposed by or under these Regulations.

(3) Section 193 (interpretation) is to be read as if—

- (a) in subsection (1), for the definition of “incoming firm” there were substituted—
 - ““incoming firm” means an EEA authorised electronic money institution which is exercising, or has exercised, its right to provide services in the United Kingdom in accordance with the Electronic Money Regulations 2011;”,
- (b) subsection (1A) were omitted; and
- (c) for subsection (2) there were substituted—
 - “(2) Expressions used in this Part and in the Payment Services Regulations 2017 have the same meaning in this Part as they have in those Regulations.”.

(4) Section 194 (general grounds on which power of intervention is exercisable) is to be read as if subsections (1)(c)(ii) and (1AA) to (5) were omitted.

(5) Sections 194A to 194C, 195A, 195B, 198 to 199A and 201 are to be ignored.

(6) Section 195 (exercise of power in support of overseas regulator) is to be read as if—

- (a) subsection (2A) were omitted; and
- (b) in subsection (5)(b), the reference to an EEA firm's EEA authorisation were a reference to an EEA authorised electronic money institution's authorisation under the electronic money directive.

(7) Section 196 (the power of intervention) is to be read as if—

- (a) in subsection (1), for paragraphs (a) and (b) there were substituted—
 - “(a) the firm were an authorised electronic money institution; and
 - (b) the FCA were entitled to exercise its power under regulation 12 of the Electronic Money Regulations 2011 (variation of authorisation on Authority's own initiative) by imposing a requirement such as may, under regulation 7 of those Regulations (imposition of requirements) be included in an authorisation under those Regulations.”; and
- (b) subsection (3) were omitted.

(8) Section 202 (contravention of requirement) is to be read as if for subsection (2) there were substituted—

“(2) Regulation 72 of the Electronic Money Regulations 2011 (right to bring actions) applies to the contravention as if it were a contravention of Part 5 of those Regulations.”.]

Textual Amendments

F23 Sch. 3 para. 4A 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\(31\)\(b\)](#) (with reg. 3)

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Auditors and actuaries

5. Part 22 (auditors and actuaries) applies with the following modifications—
- (a) for references to “authorised person” substitute “electronic money institution”; ^{F24}...
 - [^{F25}(aa) for references to “appropriate regulator” or “regulator” substitute “FCA”;
 - (ab) omit all references to “recognised investment exchange”;
 - (ac) in section 340 omit subsections (3A),(5A) and (8)(b);
 - (ad) in section 344 omit subsection (4);
 - (ae) in section 345—
 - (i) in subsection (2)(a) omit “or any particular class of authorised person;”;
 - (ii) omit subsection (2)(b);
 - (iii) in subsection (3)(a), for “FCA-authorised person” substitute “electronic money institution”;
 - (iv) omit subsection (3)(b), (c) and (d);
 - (v) omit subsection (4);
 - (af) omit section 345A;
 - (ag) in section 345B—
 - (i) in paragraph (1) omit “or the PRA proposes to act under section 345A(3)”;
 - (ii) in paragraphs (4) and (7) omit “or the PRA decides to act under section 345A(3)”;
 - (ah) in section 345C omit “or 345A(4)(b)”;
 - (ai) in section 345D omit subsections (2) and (9);]
 - (b) in subsection (1)(a) of section 346 (provision of false or misleading information)—
 - (i) for “six months” substitute “three months”; and
 - (ii) for “the statutory maximum” substitute “level 5 on the standard scale”.

Textual Amendments

F24 Word in Sch. 3 para. 5(a) omitted (1.4.2013) by virtue of [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(e)(i)**

F25 Sch. 3 para. 5(aa)-(ai) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(e)(ii)**

Restriction on disclosure of information

6. Sections 348 (restrictions on disclosure of confidential information by [^{F26}FCA, PRA] etc), 349 (exceptions from section 348) ^{F27}... and 352 ^{M10} (offences) of the 2000 Act apply with the following modifications—

- (a) in section 348—
 - [^{F28}(i) in subsection (2)(b) for the words from “, the PRA” to the end substitute “under the Electronic Money Regulations 2011; and]
 - (ii) in subsection (3)(a) for “this Act” substitute “the Electronic Money Regulations 2011”;
 - (iii) in subsection (5)—
 - (aa) for “this Part”, substitute “the Electronic Money Regulations 2011”;

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- (bb) omit paragraphs [^{F29}(aa) and (c)];
- (cc) in paragraph (e) for “a person mentioned in paragraphs (a) to (c)” substitute “[^{F30}the FCA]”;
- [^{F31}(dd) in paragraph (ea) for “a person mentioned in those paragraphs” substitute “the FCA”;
- (ee) in paragraph (f) for “a person mentioned in those paragraphs” substitute “the FCA]
- [^{F32}(iv) in subsection (6) for paragraphs (a) and (b) substitute “any body or person appointed under regulation 48 of the Electronic Money Regulations 2011”; and]
- [^{F33}(b) in section 349—
 - (i) in subsection (2)(c) omit “or the PRA”;
 - (ii) omit subsections (3A) and (3B).]

Textual Amendments

- F26** Words in Sch. 3 para. 6 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(5)(f)(i)**
- F27** Words in Sch. 3 para. 6 omitted (1.4.2013) by virtue of [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(f)(ii)**
- F28** Sch. 3 para. 6(a)(i) 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(5)(f)(iii)(aa)**
- F29** Words in Sch. 3 para. 6(a)(iii)(bb) 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(5)(f)(iii)(bb)**
- F30** Words in Sch. 3 para. 6(a)(iii)(cc) 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(5)(f)(iii)(cc)**
- F31** Sch. 3 para. 6(a)(iii)(dd)(ee) substituted for Sch. 3 para. 6(a)(iii)(dd) (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(f)(iii)(dd)**
- F32** Sch. 3 para. 6(a)(iv) 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(5)(f)(iii)(ee)**
- F33** Sch. 3 para. 6(b) 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(5)(f)(iv)**

Marginal Citations

- M10** Section 352 was amended by section 208 of, and Schedule 26 to, the [Criminal Justice Act 2003 \(c.44\)](#).

Insolvency

7. Sections 359^{M11} (administration order), 367 (winding-up petitions) and 368 (winding-up petitions: EEA and Treaty firms) of the 2000 Act apply with the following modifications—

- (a) for references to “an authorised person” substitute “an electronic money institution or an EEA electronic money institution”;
- [^{F34}(aa) omit references to a recognised investment exchange;]
- (b) in section 359—
 - (i) omit subsections (1)(b), (3)(b) and (c)^{M12} and (5);

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- (ii) for subsection (1)(c) substitute—
 - “(c) is issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”;
 - (iii) in subsection (3)(a) omit “or partnership” and for “an agreement” substitute “ a contract for electronic issuance or payment services ”; and
 - (iv) in subsection (4) omit the definitions of “agreement”, “authorised deposit taker”, “authorised reclaim fund”^{M13} and “relevant deposit”;
- (c) in section 367—
- (i) omit subsections (1)(b), (2), (5), (6) and (7);
 - (ii) for subsection (1)(c) substitute—
 - “(c) is issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”; and
 - (iii) in subsection (4) for “an agreement” substitute “ a contract for electronic money issuance or payment services ”; and
 - [^{F35}(d) in section 368, for “a regulator” in each place it appears substitute “the FCA”];

Textual Amendments

F34 Sch. 3 para. 7(aa) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(g)(i)**

F35 Sch. 3 para. 7(d) 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(5)(g)(ii)**

Marginal Citations

M11 Substituted by the Enterprise Act 2002, section 248(3), Schedule 17, paragraphs 53 and 55 and amended by [S.I. 2005/1455](#).

M12 Subsection (3)(c) was inserted by the [Dormant Bank and Building Society Accounts Act 2008 \(c.31\)](#), [section 15](#), **Schedule 2**, [paragraph 6](#).

M13 Inserted by the Dormant Bank and Building Society Accounts Act 2008.

Warning notices and decision notices

- 8.** Part 26 of the 2000 Act (notices) applies with the following modifications—
- [^{F36}(za) in section 387 (warning notices), omit subsections (1A) and (3A);]
 - (a) in section 388 (decision notices), [^{F37}omit subsections (1A) and (2)];
 - (b) in section 390 ^{M14} (final notices)—
 - (i) omit subsections (6) and (10); and
 - (ii) in subsection (8) omit “or (6)(c)”;
 - (c) in section 391 (publication)—
 - [^{F38}(iza) for subsection (1ZB) substitute—
 - “(1ZB) A warning notice falls within this subsection if it is given under—
 - (a) section 67;
 - (b) section 345B;

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- (c) regulation 10 of the Electronic Money Regulations 2011 (including regulation 10 as applied by regulation 15 of those Regulations);
 - (d) regulation 29 of those Regulations;
 - (e) regulation 35 of those Regulations;
 - (f) regulation 53 of those Regulations; or
 - (g) regulation 56 of those Regulations.”;
- (izb) omit subsection (6A);]
- (i) in subsection (10) for “has the same meaning as in section 395” substitute “ means a notice given under regulation 11(6), (9) or (10)(b) (including as applied by regulation 15) of [F39, or paragraph 4 of Schedule 4A to,] the Electronic Money Regulations 2011 ”; and
 - (ii) omit subsection (11).
- (d) for section 392 ^{M15} (application of sections 393 and 394) substitute—
- “**392.** Sections 393 and 394 apply to—
- (a) a warning notice given in accordance with regulations 10(4) (including as applied by regulation 15), 29(2) (in relation to the cancellation of a registration), 35(2), 53(1) or 56(1) of the Electronic Money Regulations 2011;
 - (b) a decision notice given in accordance with regulations 10(5)(a) (including as applied by regulation 15), 29(3)(a) (in relation to the cancellation of a registration), 35(3)(a), 53(3) or 56(3) of the Electronic Money Regulations 2011.”; and
- (e) in section 395 [F40 (the FCA’s and PRA’s procedures)] in subsection (13) for “in accordance with” to the end substitute “ under regulation 11(6), (9) or (10)(b) (including as applied by regulation 15) of [F41, or paragraph 4 of Schedule 2A to,] the Electronic Money Regulations 2011. ”.

Textual Amendments

- F36** Sch. 3 para. 8(za) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(h)(i)**
- F37** Words in Sch. 3 para. 8(a) 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(5)(h)(ii)**
- F38** Sch. 3 para. 8(c)(iza)(izb) inserted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 196(5)(h)(iii)(aa)**
- F39** Words in Sch. 3 para. 8(c)(i) 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(4)(c)(i)**
- F40** Words in Sch. 3 para. 8(e) 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(5)(h)(iv)**
- F41** Words in Sch. 3 para. 8(e) 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(4)(c)(ii)**

Marginal Citations

- M14** Amended by [S.I. 2010/22](#).
- M15** Section 392 was amended by sections 24 and 29 of, and Schedule 2 to, the Financial Services Act 2010.

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Limitation on powers to require documents

9. Section 413 of the 2000 Act (protected items) applies for the purposes of these Regulations as it applies for the purposes of that Act.

Status:

Point in time view as at 13/01/2018.

Changes to legislation:

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