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## STATUTORY INSTRUMENTS

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### 2017 No. 752

## FINANCIAL SERVICES AND MARKETS

### The Payment Services Regulations 2017

*Made - - - - 18th July 2017*

*Laid before Parliament 19th July 2017*

*Coming into force in accordance with regulation 1*

## THE PAYMENT SERVICES REGULATIONS 2017

### PART 1

#### Introductory provisions

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

### PART 2

#### Registration

##### *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. Request for cancellation of authorisation
12. Variation of authorisation on FCA's own initiative

##### *Registration as a small payment institution*

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

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14. Conditions for registration as a small payment institution
15. Supplementary provisions
16. Application for authorisation or registration if requirements cease to be met

*Registration as an account information service provider*

17. Application for registration as an account information service provider or variation of an existing registration
18. Conditions for registration as an account information service provider
19. Supplementary provisions

*Common provisions*

20. Duty to notify changes
21. Authorised payment institutions, small payment institutions and registered account information service providers acting without permission

PART 3

Authorised Payment Institutions

22. Capital requirements
23. Safeguarding requirements
- 23A. Insolvency Regulations
24. Accounting and statutory audit
25. Outsourcing

*Exercise of passport rights*

26. Application of regulations 27 to 30 to account information service providers
27. Notice of intention
28. Decision following notice of intention
29. Notice of intention from an EEA authorised payment institution
30. Supervision of firms exercising passport rights

PART 4

Provisions Applicable to Authorised Payment Institutions and Small Payment Institutions

31. Record keeping
32. Additional activities
33. Payment accounts and sums received for the execution of payment transactions
34. Use of agents
35. Removal of agent from register
36. Reliance
37. Duty to notify change in circumstance

PART 5

Requirements for providers of certain services which are not payment services

38. Notification of use of limited network exclusion
39. Notification of use of electronic communications exclusion

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## PART 6

### Information Requirements for Payment Services

#### *Application*

40. Application of Part 6
41. Application of this Part in the case of consumer credit agreements
42. Disapplication of certain regulations in the case of low-value payment instruments

#### *Single payment service contracts*

43. Information required prior to the conclusion of a single payment service contract
44. Information required after the initiation of a payment order
45. Information required after receipt of the payment order
46. Information for the payee after execution
47. Avoidance of duplication of information

#### *Framework contracts*

48. Prior general information for framework contracts
49. Information during period of contract
50. Changes in contractual information
51. Termination of framework contract
52. Information prior to execution of individual payment transaction
53. Information for the payer on individual payment transactions
54. Information for the payee on individual payment transactions

#### *Common provisions*

55. Communication of information
56. Charges for information
57. Currency and currency conversion
58. Information on additional charges or reductions
59. Burden of proof on payment service provider

#### *Other information requirements*

60. Information requirements for account information service providers
61. Information on ATM withdrawal charges
62. Provision of information leaflet

## PART 7

### Rights and Obligations in Relation to the Provision of Payment Services

#### *Application*

63. Application of Part 7
64. Application of this Part in the case of consumer credit agreements
65. Disapplication of certain regulations in the case of low value payment instruments

#### *Charges*

66. Charges

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#### *Authorisation of payment transactions*

67. Consent and withdrawal of consent
68. Confirmation of availability of funds for card-based payment transactions
69. Access to payment accounts for payment initiation services
70. Access to payment accounts for account information services
71. Limits on the use of payment instruments and access to payment accounts
72. Obligations of the payment service user in relation to payment instruments and personalised security credentials
73. Obligations of the payment service provider in relation to payment instruments
74. Notification and rectification of unauthorised or incorrectly executed payment transactions
75. Evidence on authentication and execution of payment transactions
76. Payment service provider's liability for unauthorised payment transactions
77. Payer or payee's liability for unauthorised payment transactions
78. Payment transactions where the transaction amount is not known in advance
79. Refunds for payment transactions initiated by or through a payee
80. Requests for refunds for payment transactions initiated by or through a payee

#### *Execution of payment transactions*

81. Receipt of payment orders
82. Refusal of payment orders
83. Revocation of a payment order
84. Amounts transferred and amounts received

#### *Execution time and value date*

85. Application of regulations 86 to 88
86. Payment transactions to a payment account
87. Absence of payee's payment account with the payment service provider
88. Cash placed on a payment account
89. Value date and availability of funds

#### *Liability*

90. Incorrect unique identifiers
91. Non-execution or defective or late execution of payment transactions initiated by the payer
92. Non-execution or defective or late execution of payment transactions initiated by the payee
93. Non-execution or defective or late execution of payment transactions initiated through a payment initiation service
94. Liability of payment service provider for charges and interest
95. Right of recourse
96. Force majeure

#### *Miscellaneous*

97. Consent for use of personal data
98. Management of operational and security risks
99. Incident reporting

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- 100. Authentication
- 101. Dispute resolution

## PART 8

### Access to payment systems and bank accounts

- 102. Application of regulation 103
- 103. Prohibition on restrictive rules on access to payment systems
- 104. Indirect access to designated systems
- 105. Access to bank accounts

## PART 9

### The Financial Conduct Authority

- 106. Functions of the FCA
- 106A. Technical standards
- 107. Application of this Part to requirements of retained direct EU legislation and FCA rules

### *Supervision and enforcement*

- 108. Monitoring and enforcement
- 109. Reporting requirements
- 110. Public censure
- 111. Financial penalties
- 112. Proposal to take disciplinary measures
- 113. Injunctions
- 114. Power of FCA to require restitution
- 115. Proposal to require restitution
- 116. Restitution orders
- 117. Complaints

### *Miscellaneous*

- 118. Costs of supervision
- 119. Credit agreements
- 120. Guidance
- 121. FCA's exemption from liability in damages
- 122. Application and modification of primary and secondary legislation

## PART 10

### The Payment Systems Regulator

- 123. Interpretation of Part 10
- 124. Functions of the Payment Systems Regulator
- 125. Directions
- 126. Publication of compliance failures and penalties
- 127. Penalties
- 128. Notice of publication of a compliance failure or of imposition of a penalty
- 129. Injunctions
- 130. Appeals: general
- 131. Appeals against directions and publication of compliance failures
- 132. Appeals in relation to penalties
- 133. Complaints

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- 134. Guidance
- 135. Information and investigation
- 136. Application of other provisions of the 2013 Act

#### PART 11

#### General

##### *Contracting out of statutory requirements*

- 137. Prohibition on contracting out of statutory requirement

##### *Criminal Offences*

- 138. Prohibition on provision of payment services by persons other than payment service providers
- 139. False claims to be a payment service provider or exempt
- 140. Defences
- 141. Contravention of regulations 57 and 58
- 142. Misleading the FCA or the Payment Systems Regulator
- 143. Restriction on penalties
- 144. Liability of officers of bodies corporate etc
- 145. Prosecution of offences
- 146. Proceedings against unincorporated bodies

##### *Miscellaneous*

- 147. Duty to co-operate and exchange of information
- 148. Actions for breach of requirements
- 148A Single Euro Payments Area

##### *Transitional and saving provisions*

- 149. Saving of Payment Services Regulations 2009
- 150. Transitional and saving provisions: authorised payment institutions
- 151. Transitional and saving provisions: small payment institutions
- 152. Transitional provisions: payments through network operators
- 153. Transitional and saving provisions: general
- 154. Transitional provisions: account information services and payment initiation services

##### *Gibraltar*

- 155. Application to Gibraltar

##### *Amendments to legislation*

- 156. Amendments to primary and secondary legislation
- 157. Revocations

##### *Review*

- 158. Review  
Signature

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## SCHEDULE 1 — Payment Services

### PART 1 — Payment services

1. Subject to Part 2, the following, when carried out as...  
PART 2 — Activities which do not constitute payment services
2. The following do not constitute payment services—
3. (1) The provision of cash otherwise than through an automatic...

## 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 23 (safeguarding requirements) applies, a description of the...
5. A description of the applicant's governance arrangements and internal control...
6. A description of the applicant's procedure for monitoring, handling and...
7. A description of the applicant's process for filing, monitoring, tracking...
8. A description of the applicant's business continuity arrangements, including a...
9. A description of the principles and definitions used by the...
10. A statement of the applicant's security policy, including—
11. For an applicant subject to the obligations in relation to...
12. A description of the applicant's structural organisation, including, where applicable,...
13. In relation to each person holding, directly or indirectly, a...
14. (1) The identity of directors and persons who are or...
15. The identity of the auditors of the applicant, if any...
16. (1) The legal status of the applicant and, where the...
17. The address of the head office of the applicant.
18. For the purposes of paragraphs 4, 5, 6 and 12,...
19. In the case of an applicant which proposes to provide...

## SCHEDULE 3 — Capital requirements

### PART 1 — Initial capital

1. For the purposes of this Part, “initial capital” comprises one...
2. (1) The amount of initial capital referred to in regulations...

### PART 2 — Own funds

#### *Own funds requirement*

3. The amount of own funds referred to in regulation 22(1)(b)...

#### *Adjustment by the FCA*

4. The FCA may direct that an authorised payment institution must...
5. A direction made under paragraph 4 must be on the...
6. The FCA may make a reasonable charge for making an...

#### *Provision for start-up payment institutions*

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

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*Method A*

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

*Method B*

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

*Method C*

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

*Application of accounting standards*

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

SCHEDULE 3A — Application and modification of the Banking Act 2009

- Insolvency regulations
- Section 233 of the Banking Act 2009 (insolvency regulations) applies...
- Section 234 of the Banking Act 2009 (regulations: details) applies...
- Section 235 of the Banking Act 2009 (regulations: procedure) applies...
- Section 236 of the Banking Act 2009 (review) applies as...
- For the purposes of the modifications in this Schedule— “...

SCHEDULE 4 — Prior general information for framework contracts

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

SCHEDULE 5 — Credit agreements

PART 1 — Prohibitions and restrictions

- Power to prohibit the entry into credit agreements
- Power to restrict the entry into credit agreements and to withdraw or vary a restriction

PART 2 — Procedure and appeals

- Interpretation
- Notice of prohibition or restriction
- Application to withdraw or vary prohibition or restriction
- Notice to the home state competent authority

SCHEDULE 6 — Application and modification of legislation

PART 1 — Application and modification of the 2000 Act

- Disciplinary powers
- The Upper Tribunal
- FCA rules
- Information gathering and investigations
- Control over payment institutions
- Incoming firms: interventions by the FCA
- Auditors and actuaries



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8. Restriction on disclosure of information
9. Insolvency
10. Warning notices and decision notices
11. Limitation on power to require documents
  - PART 2 — Application and modification of secondary legislation
12. The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001
13. The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

#### SCHEDULE 7 — Gibraltar

1. Exercise of market access rights by Gibraltar-based firms
2. Exercise by authorised payment institutions of market access rights in Gibraltar
- 2A. References to Gibraltar regulator
3. Modification of legislation

#### SCHEDULE 8 — Amendments to legislation

##### PART 1 — Amendments to primary legislation

1. Consumer Credit Act 1974
2. Financial Services and Markets Act 2000
3. Enterprise Act 2002
4. Financial Services (Banking Reform) Act 2013
  - PART 2 — Amendments to the Electronic Money Regulations 2011
5. Electronic Money Regulations 2011
  - PART 3 — Amendments to other secondary legislation
6. Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
7. Individual Savings Account Regulations 1998
8. Financial Services and Markets Act 2000 (Regulated Activities) Order 2001
9. Child Trust Funds Regulations 2004
10. Financial Services (Distance Marketing) Regulations 2004
11. Investment Bank Special Administration Regulations 2011
12. Consumer Rights (Payment Surcharges) Regulations 2012
13. Postal Services Act 2011 (Disclosure of Information) Order 2012
14. Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012
15. Payment to Treasury of Penalties (Enforcement Costs) Order 2013
16. Financial Services Act 2012 (Relevant Functions in relation to Complaints Scheme) Order 2014
17. Communications Act 2003 (Disclosure of Information) Order 2014
18. Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014
19. Public Interest Disclosure (Prescribed Persons) Order 2014
20. Enterprise Act 2002 (Part 8 EU Infringements) Order 2014
21. Payment to Treasury of Penalties (Enforcement Costs of the Payment Systems Regulator) Order 2015
22. Mortgage Credit Directive Order 2015
23. Small and Medium Sized Business (Credit Information) Regulations 2015
24. Small and Medium Sized Business (Finance Platforms) Regulations 2015
25. Payment Accounts Regulations 2015
26. Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

#### SCHEDULE 9 — Revocations

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## Explanatory Note

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