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## STATUTORY INSTRUMENTS

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# 2017 No. 752

## The Payment Services Regulations 2017

### PART 2

#### Registration

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

#### Conditions for registration as a small payment institution

**14.**—(1) The FCA may refuse to register an applicant as a small payment institution only if any of the conditions set out in paragraphs (2) to (11) is not met.

(2) The application must comply with the requirements of, and any requirements imposed under, regulations 13 and 20.

(3) The monthly average over the period of 12 months preceding the application of the total amount of payment transactions executed by the applicant, including any of its agents in the United Kingdom, must not exceed 3 million euros.

(4) The business to which the application relates must not include the provision of account information services or payment initiation services.

(5) None of the individuals responsible for the management or operation of the business has been convicted of—

(a) an offence under Part 7 of the Proceeds of Crime Act 2002 (money laundering) <sup>M1</sup> or under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;

(b) an offence under section 15 (fund-raising), 16 (use and possession), 17 (funding arrangements), 18 (money laundering) or 63 (terrorist finance: jurisdiction) of the Terrorism Act 2000 <sup>M2</sup>;

(c) an offence under the 2000 Act;

[<sup>F1</sup>(ca) an offence under any of regulations 11 to 16 of the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019;]

(d) an offence under regulation 3, 4 or 6 of the Al-Qaida and Taliban (Asset-Freezing) Regulations 2010 <sup>M3</sup>, or regulation 10 of the ISIL (Da'esh) and Al-Qaida (Asset-Freezing) Regulations 2011 (contravention and circumvention of prohibitions) <sup>M4</sup>;

[<sup>F2</sup>(da) an offence under regulations 8 to 13, 25 or 26 of the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 or regulations 11 to 16 of the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019;]

(e) an offence under section 11, 12, 13, 14, 15 or 18 of the Terrorist Asset-Freezing etc Act 2010 (offences relating to the freezing of funds etc. of designated persons) <sup>M5</sup>;

(f) an offence under these Regulations or the Electronic Money Regulations 2011 <sup>M6</sup>; or

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(g) any other financial crimes.

(6) Where the applicant is a partnership, an unincorporated association or a body corporate, the applicant must satisfy the FCA that any persons having a qualifying holding in it are fit and proper persons having regard to the need to ensure the sound and prudent conduct of the affairs of a small payment institution.

(7) The applicant must satisfy the FCA that—

- (a) where the applicant is a body corporate, the directors;
- (b) the persons responsible for the management of the institution; and
- (c) where relevant, the persons responsible for the management of payment services,

are of good repute and possess appropriate knowledge and experience to provide payment services.

(8) If the applicant is a body corporate which has close links with another person (“CL”) the applicant must satisfy the FCA—

- (a) that those links are not likely to prevent the FCA's effective supervision of the applicant; and
- (b) if it appears to the FCA that CL is subject to the laws, regulations or administrative provisions of a territory [<sup>F3</sup>outside the United Kingdom] (“the foreign provisions”), that neither the foreign provisions, nor any deficiency in their enforcement, would prevent the FCA's effective supervision of the applicant.

(9) Regulation 6(10) (conditions for authorisation: definition of close links) applies for the purposes of paragraph (8) of this regulation as it applies for the purposes of regulation 6(9).

(10) The applicant's head office, registered office or place of residence, as the case may be, must be in the United Kingdom.

(11) The applicant must comply with a requirement of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 to be included in a register maintained under those Regulations where such a requirement applies to the applicant.

(12) For the purposes of paragraph (3) where the applicant has yet to commence the provision of payment services, or has been providing payment services for less than 12 months, the monthly average may be based on the projected total amount of payment transactions over a 12 month period.

(13) In paragraph (5) “financial crime” includes any offence involving fraud or dishonesty and, for this purpose, “offence” includes any act or omission which would be an offence if it had taken place in the United Kingdom.

#### Textual Amendments

- F1** Reg. 14(5)(ca) inserted (31.12.2020 immediately after IP completion day) by [The Counter-Terrorism \(Sanctions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/577\)](#), [reg. 34E\(2\)](#) (as inserted by S.I. 2020/1289, regs. 1(2), [4\(2\)](#); S.I. 2020/1514, [reg. 21](#))
- F2** Reg. 14(5)(da) inserted (31.12.2020 immediately after IP completion day) by [The Sanctions \(EU Exit\) \(Miscellaneous Amendments\) Regulations 2020 \(S.I. 2020/591\)](#), regs. 1(2), [10\(3\)](#); S.I. 2020/1514, [reg. 5](#)
- F3** Words in [reg. 14\(8\)\(b\)](#) substituted (15.11.2022) by [The Financial Services \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1080\)](#), regs. 1(2), [2](#)

#### Marginal Citations

- M1** [2002 c. 29](#), as amended by sections 102 to 106 of, and paragraphs 173 and 174 of Schedule 4 and Part 2 of Schedule 17 to, the [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), paragraphs 129 to 135 of Schedule 8 to the [Crime and Courts Act 2013 \(c. 22\)](#), section 37 of the [Serious Crime Act 2015](#)

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(c. 9) and sections 10 to 12 of, and paragraphs 37 and 38 of Schedule 5 to, the [Criminal Finances Act 2017](#) (c. 22), and by [S.I. 2006/308](#), [2007/3398](#).

**M2** [2000 c. 11](#).

**M3** [S.I. 2010/1197](#), revoked by [S.I. 2011/2742](#).

**M4** [S.I. 2011/2742](#), as renamed by [S.I. 2016/937](#).

**M5** [2010 c. 38](#).

**M6** [S.I. 2011/99](#).

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**Changes and effects yet to be applied to :**

- Regulations power to amend conferred by [2021 c. 22 s. 23](#)
- reg. 14(5)(e) revoked by [2018 c. 13 Sch. 3 para. 9](#)