
STATUTORY INSTRUMENTS

2017 No. 752

The Payment Services Regulations 2017

PART 2

Registration

Authorisation as a payment institution

Conditions for authorisation as a payment institution

6.—(1) The FCA may refuse to grant all or part of an application for authorisation as a payment institution only if any of the conditions set out in paragraphs (2) to (9) is not met.

(2) The application must comply with the requirements of, and any requirements imposed under, regulations 5 (application for authorisation) and 20 (duty to notify changes).

(3) The applicant must immediately before the time of authorisation hold the amount of initial capital specified in Part 1 of Schedule 3 (capital requirements).

(4) The applicant must be a body corporate constituted under the law of a part of the United Kingdom having—

- (a) its head office, and
- (b) if it has a registered office, that office,

in the United Kingdom.

(5) The applicant carries on, or will carry on, at least part of its payment service business in the United Kingdom.

(6) The applicant must satisfy the FCA that, taking into account the need to ensure the sound and prudent conduct of the affairs of the institution, it has—

- (a) robust governance arrangements for its payment service business, including a clear organisational structure with well-defined, transparent and consistent lines of responsibility;
- (b) effective procedures to identify, manage, monitor and report any risks to which it might be exposed;
- (c) adequate internal control mechanisms, including sound administrative, risk management and accounting procedures,

which are comprehensive and proportionate to the nature, scale and complexity of the payment services to be provided by the institution.

(7) The applicant must satisfy the FCA that—

- (a) 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 an authorised payment institution;

- (b) the directors and persons responsible for the management of the institution and, 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;
 - (c) it has a business plan (including, for the first three years, a forecast budget calculation) under which appropriate and proportionate systems, resources and procedures will be employed by the institution to operate soundly;
 - (d) it has taken adequate measures for the purpose of safeguarding payment service users' funds in accordance with regulation 23 (safeguarding requirements);
 - (e) in the case of an applicant which proposes to carry on payment initiation services, it holds professional indemnity insurance or a comparable guarantee, which covers—
 - (i) the territories in which the applicant proposes to offer payment initiation services; and
 - (ii) the applicant's potential liability under regulations 76 (payment service provider's liability for unauthorised payment transactions) and 91 to 95 (non-execution or defective or late execution of transactions, liability for charges and interest and right of recourse), up to such amount as the FCA may direct; and
 - (f) in the case of an applicant which proposes to carry on account information services, it holds professional indemnity insurance or a comparable guarantee, which covers—
 - (i) the territories in which the applicant proposes to offer account information services; and
 - (ii) the applicant's potential liability to account servicing payment service providers and payment service users resulting from unauthorised or fraudulent access to, or use of, payment account information, up to such amount as the FCA may direct.
- (8) The applicant must comply with a requirement of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(1) to be included in a register maintained under those Regulations where such a requirement applies to the applicant.
- (9) If the applicant 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 which is not an EEA State ("the foreign provisions"), that neither the foreign provisions, nor any deficiency in their enforcement, would prevent the FCA's effective supervision of the applicant.
- (10) For the purposes of paragraph (9), an applicant has close links with CL if--
- (a) CL is a parent undertaking of the applicant;
 - (b) CL is a subsidiary undertaking of the applicant;
 - (c) CL is a parent undertaking of a subsidiary undertaking of the applicant;
 - (d) CL is a subsidiary undertaking of a parent undertaking of the applicant;
 - (e) CL owns or controls 20% or more of the voting rights or capital of the applicant; or
 - (f) the applicant owns or controls 20% or more of the voting rights or capital of CL.