

## SCHEDULE 6

### Application and modification of legislation

## PART 1

### Application and modification of the 2000 Act

#### Information gathering and investigations

4. Part 11 of the 2000 Act (information gathering and investigations)(1) applies with the following modifications—

- (a) section 165 (regulators' power to require information) is to be read as if—
  - (i) references to an authorised person were references to a payment service provider;
  - (ii) in subsection (4), for “this Act” there were substituted “the Payment Services Regulations 2017”; and
  - (iii) in subsection (7), paragraphs (b) to (e) were omitted;
- (b) section 166 (reports by skilled persons) is to be read as if—
  - (i) references to an authorised person were references to a payment service provider; and
  - (ii) subsections (10) and (11) were omitted;
- (c) section 166A (appointment of skilled person to collect and update information) is to be read as if references to an authorised person were to a payment service provider;
- (d) section 167 (appointment of persons to carry out general investigations) is to be read as if—
  - (i) references to a recognised investment exchange, an authorised person or an appointed representative were references to a payment service provider;
  - (ii) in subsection (4), references to a former authorised person or appointed representative were to a former payment service provider;
  - (iii) in subsection (5) for “regulated activities” there were substituted “payment services”; and
  - (iv) for subsection (5A) there were substituted—
    - “(5A) “Investigating authority” means the FCA.”;
  - (v) subsection (6) were omitted;
- (e) section 168 (appointment of persons to carry out investigations in particular cases) is to be read as if—
  - (i) in subsection (1)—
    - (aa) after paragraph (b) there were inserted—
      - “(c) a person may have contravened any requirement of or imposed under the Payment Services Regulations 2017;

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(1) Part 11 was amended by paragraph 54 of Schedule 26 to the Criminal Justice Act 2003 (c. 44), paragraph 33 of Schedule 7 to the Counter-Terrorism Act 2008, section 18 of, and paragraphs 15 to 17 of Schedule 2 to, the Financial Services Act 2010, paragraphs 1 to 14 of Schedule 12 and paragraph 8 of Schedule 18 to the Financial Services Act 2012, paragraph 11 of Schedule 3 to the Pension Schemes Act 2015, paragraphs 36 and 37 of Schedule 2 to the Bank of England and Financial Services Act 2016 and paragraph 9 of Schedule 2 to the Investigatory Powers Act 2016 (c.25), and by S.I. 2001/1090, 2005/1433, 2007/126, 2011/1043, 2012/2554, 2013/1773, 2015/575 and 2016/225 and 680

*Status: This is the original version (as it was originally made).*

- (d) an EEA authorised payment institution exercising passport rights in the United Kingdom may have contravened, or may be likely to contravene, a prohibition or restriction within the meaning of paragraph 3 (interpretation) of Schedule 5 to the Payment Services Regulations 2017 (credit agreements);
- (e) paragraph 1(4) of that Schedule 5 (power to prohibit the entry into credit agreements) may have been contravened, or may be likely to be contravened, as respects an EEA authorised payment institution exercising passport rights in the United Kingdom.”;
- (bb) in paragraph (b) for “191F” to the end there were substituted “or under regulation 138, 139, 141 or 142 of the Payment Services Regulations 2017”;
- (ii) for subsection (2) there were substituted—
  - “(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, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(2).”;
- (iii) subsections (4) and (5) were omitted; and
- (iv) for subsection (6) there were substituted—
  - “(6) “Investigating Authority” means the FCA.”;
- (f) section 169 (investigations etc in support of overseas regulator) is to be read as if—
  - (i) in subsection (8) for “Part XXIII” there were substituted “sections 348, 349 and 352, as applied with modifications by the Payment Services Regulations 2017”;
  - (ii) in subsection (13) for “has the same meaning as in section 195” there were substituted “means a competent authority in another EEA State designated in accordance with Article 22 of the payment services directive”;
- (g) section 170 (investigations: general) is to be read as if—
  - (i) in subsection (1) “or (5)” were omitted;
  - (ii) in subsection (3)(a) “or (4)” were omitted; and
  - (iii) for subsection (10) there were substituted—
    - “(10) “Investigating authority” in relation to an investigator means the FCA.”;
- (h) section 171 (powers of persons appointed under section 167) is to be read as if subsections (3A) and (7) were omitted;
- (i) section 172(4) (additional power of persons appointed as a result of section 168(1) or (4)) is to be read as if “or (4)” were omitted;
- (j) section 174 (admissibility of statements made to investigators) is to be read as if—
  - (i) in subsection (2) “or in proceedings in relation to action to be taken against that person under section 123 to which this section applies” were omitted;
  - (ii) in subsection (3)(a) for “398” there were substituted “regulation 142 of the Payment Services Regulations 2017”;
  - (iii) subsection (3A) were omitted; and
  - (iv) in subsection (4) “or (5)” were omitted;
- (k) section 175(8) (information and documents: supplemental provisions) is to be read as if “or (5)” were omitted;

- (l) section 176 (entry of premises under warrant) is to be read as if—
  - (i) in subsection (3)(a) for “an authorised person or an appointed representative” there were substituted “a payment service provider”;
  - (ii) in subsection (10) “or (5)” were omitted;
  - (iii) for subsection (11)(a) there were substituted—
    - “(a) by the FCA under section 165 or 175; or”;
- (m) 177(5)(a) (offences) is to be read as if for “six months” there were substituted “three months”.