

SCHEDULE 7

Regulation 155

Gibraltar

Exercise of [^{F1}market access rights] by Gibraltar-based firms

1.—(1) These Regulations apply in relation to a firm which—

- (a) has its head office in Gibraltar; and
- (b) is authorised in Gibraltar to provide payment services;

as follows.

[^{F2}(1A) Such a firm is referred to in the following provisions of this Schedule as a Gibraltar-based firm.]

[^{F3}(2) A Gibraltar-based firm is to be treated as having an entitlement, corresponding to the passport right deriving from the payment services directive that such a firm had immediately before IP completion day, to establish a branch or provide services in the United Kingdom.

(2A) Despite their amendment or revocation by the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018, the provisions of these Regulations listed in sub-paragraph (2B) continue to apply, as they had effect immediately before IP completion day, for the purposes of this paragraph.

(2B) The provisions referred to in sub-paragraph (2A) are as follows—

- (a) in regulation 2 (interpretation), in paragraph (1)—
 - (i) paragraphs (d) and (e) of the definition of “branch”, and
 - (ii) paragraph (d) and (e) of the definition of “payment service provider”;
 - (b) in regulation 4 (register of certain payment service providers), paragraph (2);
 - (c) regulations 29 and 30 (passporting);
 - (d) regulation 119 and Schedule 5 (credit agreements);
 - (e) regulation 138 (prohibition on provision of payment services by persons other than payment service providers);
 - (f) regulation 147 (duty to co-operate and exchange of information);
 - (g) in regulation 152 (transitional provisions: payment through network operators), paragraphs (4) to (7);
 - (h) in Schedule 6 (application and modification of legislation), paragraphs 3 and 4.
- (3) In those provisions as applying for the purposes of this paragraph—
- (a) references to an “EEA authorised payment institution” or “EEA registered account information service provider” are to be read as references to the Gibraltar-based firm,
 - (b) references to a “home state competent authority” are to be read as references to the Gibraltar Financial Services Commission,
 - (c) references to “passport rights” are to be read as references to the entitlement mentioned in sub-paragraph (2),
 - (d) references to the authorisation of any person as a credit institution, custodian or insurer in accordance with a directive are to be read as references to authorisation in accordance with Gibraltar legislation which implemented the directive,
 - (e) references to a person's rights or entitlements are to be read as references to the rights or entitlements the person would have, if the person's rights or entitlements were being determined immediately before IP completion day.]

Status: Point in time view as at 31/12/2020.

Changes to legislation: The Payment Services Regulations 2017, SCHEDULE 7 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** Words in Sch. 7 para. 1 heading substituted (31.12.2020) by The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 2 para. 73(2)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Sch. 7 para. 1(1A) inserted (31.12.2020) by The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 2 para. 73(3)(a)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Sch. 7 para. 1(2)-(3) substituted for Sch. 7 para. 1(2)(3) (31.12.2020) by The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 2 para. 73(3)(b)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8 and S.I. 2020/1301, regs. 1, 3, **Sch. para. 6(b)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**

Exercise by authorised payment institutions of [^{F4}market access rights] in Gibraltar

2.—(1) For the purposes of these Regulations, an authorised payment institution or registered account information service provider is to be treated as having an entitlement, corresponding to [^{F5}the passport right that such a firm had immediately before IP completion day,] to establish a branch or provide services in Gibraltar.

[^{F6}(1A) Despite their amendment or revocation by the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018, the provisions of these Regulations listed in sub-paragraph (1B) continue to apply, as they had effect immediately before IP completion day, for the purposes of this paragraph.

(1B) The provisions referred to in sub-paragraph (1A) are as follows—

- (a) in regulation 4 (register of certain payment service providers), paragraph (1)(a);
- (b) regulations 27 and 28 (notice of intention);
- (c) regulation 30 (supervision of firms exercising passport rights);
- (d) in regulation 32 (additional activities), paragraph (2)(c);
- (e) in regulation 34 (use of agents), paragraphs (2), (6), (7), (10), (11) and (14);
- (f) in regulation 147 (duty to co-operate and exchange information), paragraph (1);
- (g) in regulation 153 (transitional and saving provisions), paragraph (2).]

[^{F7}(2) In relation to an authorised payment institution or registered account information service provider which establishes a branch or provides services in Gibraltar, those provisions are to be read as if—

- (a) references to an “EEA branch” were references to such a branch;
- (b) references to an “EEA State” were references to Gibraltar;
- (c) references to a “host state competent authority” were references to the Gibraltar Financial Services Commission; and
- (d) references to “passport rights” were references to the entitlement mentioned in sub-paragraph (1).]

Status: Point in time view as at 31/12/2020.

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Textual Amendments

- F4** Words in Sch. 7 para. 2 heading substituted (31.12.2020) by The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 2 para. 73(4)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Sch. 7 para. 2(1) substituted (31.12.2020) by The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 2 para. 73(5)(a)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8 and S.I. 2020/1301, regs. 1, 3, **Sch. para. 6(b)(ii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Sch. 7 para. 2(1A)(1B) inserted (31.12.2020) by The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 2 para. 73(5)(b)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8 and S.I. 2020/1301, regs. 1, 3, **Sch. para. 6(b)(iii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F7** Sch. 7 para. 2(2) substituted (31.12.2020) by The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 2 para. 73(5)(c)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)

[^{F8}References to Gibraltar regulator

2A.—(1) The Treasury may by regulations made by statutory instrument make such amendments of the references in paragraphs 1 and 2 to the Gibraltar Financial Services Commission, or any references previously substituted for those references, as appear to the Treasury to be appropriate in order to take account of any change in the law of Gibraltar.

(2) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F8** Sch. 7 para. 2A inserted (31.12.2020) by The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 2 para. 73(6)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)

Modification of legislation

^{F9}3.

Textual Amendments

- F9** Sch. 7 para. 3 omitted (31.12.2020) by virtue of The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 2 para. 73(7)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)

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