

STATUTORY INSTRUMENTS

2021 No. 716

**The Payment and Electronic Money
Institution Insolvency Regulations 2021**

**FSMA 2000, Pt 24: application to payment and electronic money institution insolvency
except special administration**

48.—(1) In the PSR 2017, in Schedule 6, for paragraph 9 substitute—

“**9.** The sections of the 2000 Act mentioned in the first column of the Table apply with any modifications shown in the third column.

<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
Generally (for the sections mentioned below)		To be read as if— (a) references to an authorised person or recognised investment exchange were to an authorised payment institution or a small payment institution; (b) references to the appropriate regulator, or to the regulator or a regulator, were to the FCA; (c) references to creditors included users.
Section 356	Powers of FCA to participate in proceedings: company voluntary arrangements	To be read as if subsections (4) and (5) were omitted.
Section 357	Powers of FCA to participate in proceedings: individual voluntary arrangements	To be read as if subsections (7) and (8) were omitted.
Section 358	Powers of FCA to participate in proceedings: trust deeds for creditors in Scotland	To be read as if subsection (6A) were omitted.
Section 359	Administration order	To be read as if— (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with—

Status: Point in time view as at 08/07/2021.

Changes to legislation: There are currently no known outstanding effects for the The Payment and Electronic Money Institution Insolvency Regulations 2021, Section 48. (See end of Document for details)

<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
		<p>“(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(c) subsection (1A) were omitted;</p> <p>(d) in subsection (3)(a), the reference to an agreement were to a contract for payment services;</p> <p>(e) subsection (3)(b) and (c) were omitted;</p> <p>(f) in subsection (4), the definitions of “agreement”, “authorised deposit taker”, “authorised reclaim fund” and “relevant deposit” were omitted;</p> <p>(g) subsection (5) were omitted.</p>
Section 361	Administrators’ duty to report to FCA	<p>To be read as if—</p> <p>(a) in subsection (2)(a) the reference to the general prohibition were to regulation 138(1) of the Payment Services Regulations 2017;</p> <p>(b) subsection (2)(b) were omitted;</p> <p>(c) subsection (2A) were omitted;</p> <p>(d) in subsection (3)(b) the reference to the general prohibition were to regulation 138(1) of the Payment Services Regulations 2017.</p>
Section 362	Powers of FCA to participate in proceedings	<p>To be read as if—</p> <p>(a) subsection (1)(b) were omitted;</p> <p>(b) subsection (1)(c) were substituted with—</p> <p>“(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(c) subsections (7) and (8) were omitted.</p>
Section 362A	Administrator appointed by company or directors	To be read as if subsection (2B) were omitted.
Section 363	Receivership: powers of FCA to participate in proceedings	<p>To be read as if—</p> <p>(a) subsection (1)(b) were omitted;</p> <p>(b) subsection (1)(c) were substituted with—</p>

<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
		“(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (c) subsection (6) were omitted.
Section 364	Receiver’s duty to report to FCA	To be read as if— (a) in subsection (b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (b) in the words after subsection (b), the words from “and,” to the end were omitted.
Section 365	Voluntary winding up: powers of FCA to participate in proceedings	To be read as if subsection (8) were omitted.
Section 367	Winding-up petitions	To be read as if— (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with— “(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (c) subsection (1A) were omitted; (d) in subsection (4) for “an agreement” there were substituted “a contract for payment services”; (e) subsection (5) were omitted.
Section 370	Liquidator’s duty to report to FCA	To be read as if— (a) in subsection (1)(b)(ii), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (b) in the words after subsection (1)(b), the words from “and,” to the end were omitted; (c) in subsection (2)(b), the reference to the general prohibition were to regulation 138(1) of the Payment Services Regulations 2017.

Status: Point in time view as at 08/07/2021.

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<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
Section 371	Winding up: powers of FCA to participate in proceedings	To be read as if — (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with— “(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (c) subsections (6) and (7) were omitted.
Section 372	Bankruptcy: Petitions	To be read as if — (a) subsection (1A) were omitted; (b) in subsections (3) and (4), the reference to an agreement, in both places it occurs, were to a contract for payment services; (c) in subsections (2) and (6) the reference to subsection (1A), in each place it occurs, were omitted; (d) in subsection (7)(b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (e) subsection (8) were omitted.
Section 373	Bankruptcy: insolvency practitioner’s duty to report to FCA	To be read as if — (a) in subsection (1)(b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (b) in the words after subsection (1)(b)(ii), the words from “and,” to the end were omitted; (c) in subsection (1A)(b), the reference to the general prohibition were to regulation 138(1) of the Payment Services Regulations 2017.
Section 374	Bankruptcy: powers of FCA to participate in proceedings	To be read as if — (a) in subsection (5)(b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in

<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
		<p>contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(b) in subsection (6)(b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(c) subsections (7) and (8) were omitted.</p>
Section 375	Provisions against debt avoidance: right of FCA to apply for an order	<p>To be read as if—</p> <p>(a) in subsection (1)(a), for the words from “carrying” to the end there were substituted “providing payment services (whether or not in contravention of regulation 138 (1) of the Payment Services Regulations 2017);”;</p> <p>(b) in subsection (1)(b) the reference to a regulated activity carried on were to payment services being provided;</p> <p>(c) subsection (1A) were omitted;</p> <p>(d) in subsection (2) “or subsection (1A)(b) (as the case may be)” were omitted.”.</p>

(2) In the Electronic Money Regulations 2011, in Schedule 3, for paragraph 7 substitute—

“7. The sections of the 2000 Act mentioned in the first column of the Table apply with any modifications shown in the third column.

<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
Generally (for the sections mentioned below)		<p>To be read as if—</p> <p>(a) references to an authorised person or recognised investment exchange were to an electronic money institution;</p> <p>(b) references to the appropriate regulator, or to the regulator or a regulator, were to the FCA;</p> <p>(c) references to creditors included users or holders.</p>
Section 356	Powers of FCA to participate in proceedings: company voluntary arrangements	To be read as if subsections (4) and (5) were omitted.
Section 357	Powers of FCA to participate in	To be read as if subsections (7) and (8) were omitted.

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<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
	proceedings: individual voluntary arrangements	
Section 358	Powers of FCA to participate in proceedings: trust deeds for creditors in Scotland	To be read as if subsection (6A) were omitted.
Section 359	Administration order	To be read as if— (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with— “(c) is issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”; (c) subsection (1A) were omitted; (d) in subsection (3)(a), the reference to an agreement were to a contract for electronic money issuance or payment services; (e) subsection (3)(b) and (c) were omitted; (f) in subsection (4) the definitions of “agreement, “authorised deposit taker”, “authorised reclaim fund” and “relevant deposit” were omitted; (g) subsection (5) were omitted.
Section 361	Administrators duty to report to FCA	To be read as if— (a) in subsection (2)(a) the reference to the general prohibition were to regulation 63(1) of the Electronic Money Regulations 2011; (b) subsection (2)(b) were omitted; (c) subsection (2A) were omitted; (d) in subsection (3)(b) the reference to the general prohibition were to regulation 63(1) of the Electronic Money Regulations 2011.
Section 362	Powers of FCA to participate in proceedings	To be read as if— (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with—

<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
		“(c) is issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”; (c) subsections (7) and (8) were omitted.
Section 362A	Administrator appointed by company or directors	To be read as if subsection (2B) were omitted.
Section 363	Receivership: powers of FCA to participate in proceedings	To be read as if— (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with— “(c) is issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”; (c) subsection (6) were omitted.
Section 364	Receiver’s duty to report to FCA	To be read as if— (a) in subsection (b), for the words from “carrying” to the end there were substituted “issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”; (b) in the words after subsection (b), the words from “and,” to the end were omitted.
Section 365	Voluntary winding up: powers of FCA to participate in proceedings	To be read as if subsection (8) were omitted.
Section 367	Winding-up petitions	To be read as if— (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with— “(c) is issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”; (c) subsection (1A) were omitted; (d) in subsection (4) for “an agreement” there were substituted “a contract for electronic money issuance or payment services”; (e) subsection (5) were omitted.

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<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
Section 370	Liquidator's duty to report to FCA	To be read as if — (a) in subsection (1)(b), for the words from “carrying” to the end there were substituted “issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”; (b) in the words after subsection (1)(b), the words from “and,” to the end were omitted; (c) in subsection (2)(b), the reference to the general prohibition were to regulation 63(1) of the Electronic Money Regulations 2011.
Section 371	Winding up: powers of FCA to participate in proceedings	To be read as if — (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with— “(c) is issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”; (c) subsections (6) and (7) were omitted.
Section 372	Bankruptcy: Petitions	To be read as if — (a) subsection (1A) were omitted; (b) in subsections (3) and (4), the reference to agreement, in both places it occurs, were to a contract for electronic money issuance or payment services; (c) in subsections (2) and (6) the reference to subsection (1A), in each place it occurs, were omitted; (d) in subsection (7)(b), for the words from “carrying” to the end there were substituted “issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”; (e) subsection (8) were omitted.
Section 373	Bankruptcy: insolvency practitioner's duty to report to FCA	To be read as if — (a) in subsection (1)(b), for the words from “carrying” to the end there were substituted “issuing or has issued electronic money in contravention of

<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
		<p>regulation 63(1) of the Electronic Money Regulations 2011.”;</p> <p>(b) in the words after subsection (1)(b), the words from “and,” to the end were omitted;</p> <p>(c) in subsection (1A)(b), the reference to the general prohibition were to regulation 63(1) of the Electronic Money Regulations 2011.</p>
Section 374	Bankruptcy: powers of FCA to participate in proceedings	<p>To be read as if —</p> <p>(a) in subsection (5)(b), for the words from “carrying” to the end there were substituted “issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”;</p> <p>(b) in subsection (6)(b), for the words from “carrying” to the end there were substituted “issuing or has issued electronic money in contravention of regulation 63(1) of the Electronic Money Regulations 2011.”;</p> <p>(c) subsections (7) and (8) were omitted.</p>
Section 375	Provisions against debt avoidance: right of FCA to apply for an order	<p>To be read as if—</p> <p>(a) in subsection (1)(a), for the words from “carrying” to the end there were substituted “issuing electronic money (whether or not in contravention of regulation 63(1) of the Electronic Money Regulations 2011).”;</p> <p>(b) in subsection (1)(b), the reference to a regulated activity carried on were to electronic money issuance services being provided;</p> <p>(c) subsection (1A) were omitted;</p> <p>(d) in subsection (2), “or subsection (1A)(b) (as the case may be)” were omitted.”.</p>

Commencement Information

II Reg. 48 in force at 8.7.2021, see [reg. 2](#)

Status:

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Changes to legislation:

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