
STATUTORY INSTRUMENTS

2011 No. 99

The Electronic Money Regulations 2011

PART 2

REGISTRATION

Registration as a small electronic money institution

Application for registration as a small electronic money institution or variation of an existing registration

12.—(1) An application for registration as a small electronic money institution must contain, or be accompanied by, such information as the Authority may reasonably require.

(2) An application for the variation of a registration must—

- (a) contain a statement of the proposed variation;
- (b) contain a statement of the electronic money issuance and payment services business which the applicant proposes to carry on if the registration is varied; and
- (c) contain, or be accompanied by, such other information as the Authority may reasonably require.

(3) An application under paragraph (1) or (2) must be made in such manner as the Authority may direct.

(4) At any time after receiving an application and before determining it, the Authority may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application.

(5) Different directions may be given, and different requirements imposed, in relation to different applications or categories of application.

Conditions for registration

13.—(1) The Authority may refuse to register an applicant as a small electronic money institution only if any of the conditions set out in paragraphs (2) to (10) is not met.

(2) The application must comply with the requirements of, and any requirements imposed under, regulation 12.

(3) The total business activities of the applicant immediately before the time of registration must not generate average outstanding electronic money that exceeds 5,000,000 euro.

(4) The monthly average over the period of 12 months preceding the application of the total amount of relevant payment transactions must not exceed 3,000,000 euro.

(5) The applicant must immediately before the time of registration hold such amount, if any, of initial capital as is required in accordance with Part 1 of Schedule 2.

(6) The applicant must satisfy the Authority 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 electronic money and payment services business, including a clear organisational structure with well-defined, transparent and consistent lines of responsibility; and
- (b) effective procedures to identify, manage, monitor and report any risks to which it might be exposed,

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

(7) The applicant must satisfy the Authority that—

- (a) the directors and persons responsible for the management of its electronic money and payment services business are of good repute and possess appropriate knowledge and experience to issue electronic money and provide payment services;
- (b) 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; and
- (c) it has taken adequate measures for the purpose of safeguarding electronic money holders' funds in accordance with regulation 20.

(8) 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)(**1**) or under the Money Laundering Regulations 2007;
- (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(**2**);
- (c) an offence under the 2000 Act;
- (d) an offence under the Terrorist Asset-Freezing etc. Act 2010(**3**) or the Al-Qaida and Taliban (Asset-Freezing) Regulations 2010(**4**);
- (e) an offence under these Regulations or the Payment Services Regulations 2009; or
- (f) any other financial crime.

(9) The applicant must be a body corporate whose head office is situated in the United Kingdom.

(10) The applicant must comply with a requirement of the Money Laundering Regulations 2007 to be included in a register maintained under those Regulations where such a requirement applies to the applicant.

(11) For the purposes of paragraph (4), where the applicant has yet to commence the provision of payment services which are not related to the issuance of electronic money, or has been providing such payment services for less than 12 months, the monthly average may be based on the projected total amount of relevant payment transactions over a 12 month period.

(12) In paragraph (4) “relevant payment transactions” in respect of a small electronic money institution means payment transactions which—

- (a) are not related to the issuance of electronic money; and
- (b) are executed by the institution, including any of its agents who are in the United Kingdom.

(1) [2002 c.29](#). Part 7 was amended by [S.I. 2007/3398](#).

(2) [2000 c.11](#).

(3) [2010 c.38](#).

(4) [S.I. 2010/1197](#).

(13) In paragraph (8) “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.

Average outstanding electronic money

14.—(1) Where—

- (a) an applicant provides payment services that are not related to the issuance of electronic money or carries out any of the activities referred to in regulation 32(1)(b) to (d) and (2); and
- (b) the amount of outstanding electronic money is unknown in advance,

the applicant may make an assessment for the purposes of regulation 13(3) on the basis of a representative portion assumed to be used for the issuance of electronic money, provided that the representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the Authority.

(2) Where an applicant has not completed a sufficiently long period of business to compile historical data adequate to make the assessment under paragraph (1), the applicant must make the assessment on the basis of projected outstanding electronic money as evidenced by its business plan, subject to any adjustments to that plan which are, or have been, required by the Authority.

Supplementary provisions

15. Regulations 7 to 11 apply to registration as a small electronic money institution as they apply to authorisation as an authorised electronic money institution with the following modifications—

- (a) references to authorisation are to be treated as references to registration;
- (b) for regulation 8 substitute—

“**8.—**(1) The Authority may, on the application of a small electronic money institution, vary the person’s registration by—

- (a) imposing a requirement such as may, under regulation 7, be included in a registration;
- (b) cancelling a requirement included in the registration or previously imposed under paragraph (a); or
- (c) varying such a requirement,

provided that the conditions set out in paragraph (2) continue to be met.

(2) The conditions that must continue to be met are—

- (a) the conditions in regulation 13(6) to (10);
- (b) where applicable, compliance with the requirement in regulation 19(2) to maintain own funds;
- (c) the condition that the total business activities of the applicant generate average outstanding electronic money that does not exceed 5,000,000 euro; and
- (d) the condition that the monthly average over any period of 12 months of the total amount of relevant payment transactions does not exceed 3,000,000 euro.

(3) In paragraph (2)(d) “relevant payment transactions” has the same meaning as in regulation 13.”;

- (c) in regulation 10 for paragraph (1)(e) substitute—

- “(e) the person no longer complies with, or is unlikely to continue to comply with, any of the conditions mentioned in regulation 8(2)(a), (b), (c) and (d);”;
- and
- (d) in regulation 11 for paragraph (1)(a) substitute—
 - “(a) the person no longer complies with, or is unlikely to continue to comply with, any of the conditions mentioned in regulation 8(2)(a), (b), (c) and (d);”.

Application to become an authorised electronic money institution where a financial limit is exceeded

16. Where a small electronic money institution ceases to comply with a condition referred to in regulation 8(2)(c) or (d) (as applied by regulation 15), the institution concerned must, within 30 days of becoming aware of the change in circumstances, apply to become an authorised electronic money institution under regulation 5 if it intends to continue issuing electronic money in the United Kingdom.