

SCHEDULE 4

Regulation 79

Amendments to primary and secondary legislation

PART 1

Amendments to primary legislation

Consumer Credit Act 1974

1. In section 25(1C)(1) of the Consumer Credit Act 1974(2) (licensee to be a fit person), after “credit institutions” insert “(as that Annex was last amended by Directive 2009/111/EC)”.

The 2000 Act

2.—(1) The 2000 Act is amended as follows.

(2) In Part 14 (disciplinary measures), in section 206A(2) (suspending permission to carry on regulated activities etc) in the definition of “relevant requirement” omit the word “or” before paragraph (b) and after that paragraph insert—

- “(c) by the Payment Services Regulations 2009; or
- (d) by the Electronic Money Regulations 2011.”.

(3) In Part 16 (the ombudsman scheme)—

- (a) in section 226(2)(b)(3) (compulsory jurisdiction), after “authorised person,” insert “or an electronic money issuer within the meaning of the Electronic Money Regulations 2011”; and
- (b) in section 234(1)(4) (industry funding), after “class of authorised person” insert “, any electronic money issuer within the meaning of the Electronic Money Regulations 2011”.

(4) In Part 28 (miscellaneous)—

- (a) in section 404(2) (consumer redress schemes)(5), as substituted by section 14 of the Financial Services Act 2010, omit the word “or” before paragraph (b) and at the end of that paragraph insert—

“or

- (c) electronic money issuers.”;

(b) in section 404E (meaning of “consumers”)—

- (i) in subsection (2) omit the word “or” before paragraph (f) and at the end of that paragraph insert—

“or

- (g) electronic money issuers in issuing electronic money.”; and

(ii) in subsection (6), after the definition of “engage in any investment activity” insert—

““electronic money” has the same meaning as in the Electronic Money Regulations 2011 and any reference to issuing electronic money must be read accordingly.”.

(1) Section 25(1C) was inserted by S.I. 2001/3649 and amended by S.I. 2006/3221 and 2007/126.

(2) 1974 c.39.

(3) Section 226(2)(b) was amended by S.I. 2009/209.

(4) Section 234(1) was amended by S.I. 2009/209.

(5) Section 404, together with sections 404A to 404G, was substituted by section 14 of the Financial Services Act 2010 (c.28).

Status: This is the original version (as it was originally made).

- (5) In section 404F (other definitions etc)—
- (i) after subsection (6) insert—
- “(6A) References in sections 404 and 404E to an “electronic money issuer” are references to a person mentioned in paragraph (a), (b), (c), (d), (h) or (i) of the definition of “electronic money issuer” in regulation 2(1) of the Electronic Money Regulations 2011.”; and
- (ii) in subsection (8), in paragraph (a) omit the word “or” before paragraph (b) and at the end of that paragraph insert—
- “or
- (c) the variation under regulation 8 or 11 of the Electronic Money Regulations 2011 of an authorisation under those regulations.”.
- (6) In paragraph 12 of Schedule 1A (further provision about the consumer financial education body)(6)—
- (a) in the cross heading preceding paragraph 12 for “or payment service providers” substitute—
- “, *payment service providers or electronic money issuers*”;
- (b) in sub-paragraph (1)(a) after “authorised persons” insert “, electronic money issuers”;
- (c) in sub-paragraph (1)(b) after “authorised person” insert “, electronic money issuer”; and
- (d) after sub-paragraph (4) insert—
- “(4A) “Electronic money issuer” means a person who is an electronic money issuer for the purposes of the Electronic Money Regulations 2011 as a result of falling within any of paragraphs (a) to (e) and (h) to (j) of the definition in regulation 2(1).”.
- (7) In paragraph 8(6) of Schedule 11A (transferable securities)(7) for “4(1)(a)” substitute “4(1)”.
- (8) In paragraph 13(4) of Schedule 17 (the ombudsman scheme)(8), after “an authorised person,” insert “an electronic money issuer within the meaning of the Electronic Money Regulations 2011”.

The Terrorism Act 2000

3. In the Terrorism Act 2000(9)—
- (a) in Part 1 of Schedule 3A (regulated sector)(10) —
- (i) in paragraph 1(1)(b), for “and 14” substitute “, 14 and 15”;
- (ii) in paragraph 1(2)(a), for “Article 4(1)(a)” substitute “Article 4(1)”;
- (iii) in paragraph 3(1), at the end of the definition of “Banking Consolidation Directive” insert “as last amended by Directive [2009/111/EC](#)”;
- (b) in paragraph 6(1) of Schedule 6 (financial information)—
- (i) in sub-paragraph (g), after “credit institutions” insert “ as last amended by Directive [2009/111/EC](#)”;
- (ii) omit the word “and” at the end of sub-paragraph (h) and after that sub-paragraph insert—

(6) Schedule 1A was inserted by Schedule 1 to the Financial Services Act 2010.

(7) Schedule 11A was inserted by [S.I. 2005/1433](#).

(8) Paragraph 13(4) of Schedule 17 was amended by [S.I. 2009/209](#).

(9) [2000 c.11](#).

(10) Schedule 3A was inserted by the Anti-terrorism, Crime and Security Act [2001 \(c.24\)](#), section 3, Schedule 2, paragraphs 5 and 6.

- “(ha) an electronic money institution within the meaning of Directive [2009/110/EC](#) of the European Parliament and of the Council of 16th September 2009 relating to the taking up, pursuit and prudential supervision of the business of electronic money institutions, and”; and
- (iii) in sub-paragraph (h), for “and 14” substitute “, 14 and 15”.

The Proceeds of Crime Act 2002

4. In Part 1 of Schedule 9 to the Proceeds of Crime Act 2002⁽¹¹⁾ (regulated sector) —
- (a) in paragraph 1(1)(b), for “and 14” substitute “, 14 and 15”;
 - (b) in paragraph 1(2)(a), for “Article 4(1)(a)” substitute “Article 4(1)”;
 - (c) in paragraph 3(1), at the end of the definition of “the Banking Consolidation Directive” insert “as last amended by Directive [2009/111/EC](#)”.

The Companies Act 2006

5. In the Companies Act 2006⁽¹²⁾—
- (a) in section 1173(1) (minor definitions: general), in the definition of “credit institution”—
 - (i) for “Article 4.1(a)” substitute “Article 4.1”; and
 - (ii) at the end insert “as last amended by Directive [2009/111/EC](#)”; and
 - (b) in section 1210(3) (meaning of “statutory auditor” etc.), in paragraph (a) of the definition of “bank”—
 - (i) for “Article 4.1(a)” substitute “Article 4.1”; and
 - (ii) at the end insert “as last amended by Directive [2009/111/EC](#)”.

The Counter-Terrorism Act 2008

6. In Part 2 of Schedule 7 to the Counter-Terrorism Act 2008⁽¹³⁾ (terrorist financing and money laundering) —
- (a) in paragraph 5(1)(a), for “Article 4(1)(a)” substitute “Article 4(1)”;
 - (b) in paragraph 5(2)(a), for “and 14” substitute “, 14 and 15”; and
 - (c) in paragraph 7, at the end of the definition of “the banking consolidation directive” insert “as last amended by Directive [2009/111/EC](#)”.

PART 2

Amendments to secondary legislation

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

7. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975⁽¹⁴⁾ is amended as follows—
- (a) in article 2(1), after the definition of “director” insert—

⁽¹¹⁾ [2002 c.29](#). Part 1 of Schedule 9 was substituted by [S.I. 2007/3287](#).

⁽¹²⁾ [2006 c.46](#).

⁽¹³⁾ [2008 c.28](#).

⁽¹⁴⁾ [S.I. 1975/1023](#); amended by [S.I. 1986/2268](#); [S.I. 2001/3816](#) and [2007/2149](#).

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

““electronic money institution” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011;”;

(b) in article 3(g), in the table, at the end insert—

“17 A director or manager responsible for The Financial Services Authority. the management of the electronic money or payment services business of an electronic money institution.

18 A controller of an electronic money The Financial Services Authority.”; institution.

(c) omit the word “or” before sub-paragraph (xii) of article 4(d) and after that sub-paragraph insert—

“(xiii) to refuse an application for registration as an authorised electronic money institution or a small electronic money institution under the Electronic Money Regulations 2011, or

(xiv) to vary or cancel such registration (or to refuse to vary or cancel such registration) or to impose a requirement under regulation 7 of those Regulations.”.

The Financial Markets and Insolvency (Settlement Finality) Regulations 1999

8. In regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999⁽¹⁵⁾ in the definition of “credit institution”—

(a) for “Article 4(1)(a)” substitute “Article 4(1)”; and

(b) after “business of credit institutions” insert “(as last amended by Directive [2009/111/EC](#))”.

The Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000

9. In paragraph 1 of the Schedule to the Competition Act 1998 (Small Agreements and Conduct of Minor Significance) Regulations 2000⁽¹⁶⁾—

(a) in the definition of “credit institution”—

(i) for “Article 4(1)(a)” substitute “Article 4(1)”; and

(ii) at the end insert “as last amended by Directive [2009/111/EC](#)”; and

(b) in the definition of “financial institution” at the end insert “as last amended by Directive [2009/111/EC](#)”.

The Competition Act 1998 (Determination of Turnover for Penalties) Order 2000

10. In paragraph 1(1) of the Schedule to the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000⁽¹⁷⁾—

(a) in the definition of “credit institution”—

(i) for “Article 4(1)(a)” substitute “Article 4(1)”; and

(ii) at the end insert “as last amended by Directive [2009/111/EC](#)”; and

⁽¹⁵⁾ [S.I. 1999/2979](#); a relevant amending instrument is [S.I. 2006/3221](#).

⁽¹⁶⁾ [S.I. 2000/262](#); relevant amending instruments are [S.I. 2006/3221](#) and [2000/2952](#).

⁽¹⁷⁾ [S.I. 2000/309](#); relevant amending instruments are [S.I. 2006/3221](#) and [2000/952](#).

- (b) in the definition of “financial institution” at the end insert “as last amended by Directive [2009/111/EC](#)”.

The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001

11. The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001⁽¹⁸⁾ are amended as follows—

- (a) in regulation 1(2) omit the definition of “electronic money institution”;
- (b) in regulation 2(3)(d) omit “except where the firm is an electronic money institution,”; and
- (c) in regulation 2(4)(a)(ii) omit “(other than an electronic money institution)”.

The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

12. The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽¹⁹⁾ is amended as follows—

- (a) in article 3(1)—
 - (i) in the definition of “credit institution” after “banking consolidation directive” insert “(as last amended by Directive [2009/111/EC](#))”;
 - (ii) for the definition of “electronic money” substitute—

““electronic money” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011;”;
- (b) in article 9AB—
 - (i) in paragraph (1), for “or a small payment institution” substitute “, a small payment institution, an electronic money institution or an EEA authorised electronic money institution”; and
 - (ii) in paragraph (2), at the end insert—

“and “electronic money institution” and “EEA authorised electronic money institution” have the meanings given in the Electronic Money Regulations 2011.”
- (c) in article 9B after “money” insert—

“by—

 - (a) a credit institution, a credit union or a municipal bank; or
 - (b) a person who is deemed to have been granted authorisation under regulation 74 of the Electronic Money Regulations 2011 or who falls within regulation 76(1) of those Regulations.”;
- (d) after 9B insert—

“**9BA.** Articles 9C to 9I and 9K apply only in the case of a person falling within regulation 76(1) of the Electronic Money Regulations 2011.”;
- (e) omit article 9L.

The Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003

13. In paragraph 1 of the Schedule to the Enterprise Act 2002 (Merger Fees and Determination of Turnover) Order 2003⁽²⁰⁾—

⁽¹⁸⁾ [S.I.2001/2511](#); a relevant amending instrument is [S.I. 2002/765](#).

⁽¹⁹⁾ [S.I. 2001/544](#); relevant amending instruments are [S.I. 2002/682](#), [2002/1776](#) and [2009/209](#).

⁽²⁰⁾ [S.I. 2003/1370](#); a relevant amending instrument is [S.I. 2006/3221](#).

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

- (a) at the end of the definition of “credit institution” insert “as last amended by Directive [2009/111/EC](#)”; and
- (b) at the end of the definition of “financial institution” insert “as last amended by Directive [2009/111/EC](#)”.

The Conduct of Employment Agencies and Employment Business Regulations 2003

14. In regulation 25(1) of the Conduct of Employment Agencies and Employment Business Regulations 2003(21), in the definition of “credit institution”—

- (a) for “Article 4(1)(a)” substitute “Article 4(1)”; and
- (b) after “business of credit institutions” insert “(as last amended by Directive [2009/111/EC](#))”.

The Financial Services (Distance Marketing) Regulations 2004

15. In regulation 17(2)(c) of the Financial Services (Distance Marketing) Regulations 2004(22) after “electronic money by” insert “an electronic money institution within the meaning of the Electronic Money Regulations 2011 or”.

The Credit Institutions (Reorganisation and Winding Up) Regulations 2004

16. In regulation 2(1) of the Credit Institutions (Reorganisation and Winding Up) Regulations 2004(23), at the end of the definition of “banking consolidation directive” insert “as last amended by Directive [2009/111/EC](#)”.

The Building Societies Act 1986 (Modification of the Lending Limit and Funding Limit Calculations) Order 2004

17. In article 2(1) of the Building Societies Act 1986 (Modification of the Lending Limit and Funding Limit Calculations) Order 2004(24), in the definition of “credit institution”—

- (a) omit “the first sub-paragraph of”; and
- (b) for “as amended” substitute “as last amended by Directive [2009/111/EC](#)”.

The Pension Protection Fund (Entry Rules) Regulations 2005

18. In regulation 1 of the Pension Protection Fund (Entry Rules) Regulations 2005(25), at the end insert—

“(6) Until 30th April 2011, amendments made to Directive [2006/48/EC](#) of the European Parliament and of the Council by Directive [2009/110/EC](#) of the European Parliament and of the Council shall be disregarded for the purposes of the definition of “EEA credit institution” in paragraph (3).”

The Money Laundering Regulations 2007

19. The Money Laundering Regulations 2007 are amended as follows—

- (a) in regulation 2(1) for the definition of “the electronic money directive” substitute the following definitions—

(21) [S.I. 2003/3319](#); a relevant amending instrument is [S.I. 2006/3221](#).

(22) [S.I. 2004/2095](#).

(23) [S.I. 2004/1045](#); a relevant amending instrument is [S.I. 2006/3221](#).

(24) [S.I. 2004/3200](#); a relevant amending instrument is [S.I. 2006/3221](#).

(25) [S.I. 2005/590](#); relevant amending instruments are [S.I. 2009/451](#) and [2010/2628](#).

““the electronic money directive” means Directive [2009/110/EC](#) of the European Parliament and of the Council of 16th September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions;”

““electronic money institution” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011;”;

- (b) in regulation 3—
 - (i) in paragraph (2)(a) for “Article 4(1)(a)” substitute “Article 4(1)”; and
 - (ii) in paragraph (3)(a) for “and 14” substitute “, 14 and 15”;
- (c) in regulation 13(7)(d)—
 - (i) in the opening words for “Article 1(3)(b)” substitute “Article 2(2)”;
 - (ii) in paragraph (i) for “150 euro” substitute “250 euro or, in the case of electronic money used to carry out payment transactions within the United Kingdom, 500 euro”; and
 - (iii) in paragraph (ii) for “by the bearer” to the end substitute—

“by the electronic money holder (within the meaning of Article 11 of the electronic money directive).”;
- (d) in regulation 17(5)(**26**) after “those Regulations” insert—

“; and

 - (c) any electronic money institution or EEA authorised electronic money institution (within the meaning of the Electronic Money Regulations 2011) which provides payment services mainly falling within paragraph 1(f) of Schedule 1 to the Payment Services Regulations 2009”;
- (e) in regulation 20 after paragraph (5) insert—

“(5A) A relevant person who is an issuer of electronic money must appoint an individual to monitor and manage compliance with, and the internal communication of, the policies and procedures relating to the matters referred to in paragraph (1)(a) to (e), and in particular to—

 - (a) identify any situations of higher risk of money laundering or terrorist financing;
 - (b) maintain a record of its policies and procedures, risk assessment and risk management including the application of such policies and procedures;
 - (c) apply measures to ensure that such policies and procedures are taken into account in all relevant functions including in the development of new products, dealing with new customers and in changes to business activities; and
 - (d) provide information to senior management about the operation and effectiveness of such policies and procedures at least annually.”;
- (f) in regulation 23(1)(a) after paragraph (iii) insert—

“(iv) electronic money institutions;”;
- (g) in regulation 49A(1)(**27**), after “Payment Services Regulations 2009” insert “or the Electronic Money Regulations 2011”; and
- (h) in Schedule 1—
 - (i) in the heading, for “and 14” substitute “, 14 and 15”; and
 - (ii) at the end insert—

(26) Regulation 17(5) was substituted by [S.I. 2009/209](#).

(27) Regulation 49A was inserted by [S.I. 2009/209](#).

“15. Issuing electronic money.”

Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008

20. In the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008⁽²⁸⁾, in regulations 32 and 47, in the definitions of “e-money issuer” (in the modifications to the Companies Act 2006), after “a person” insert “who is registered as an authorised electronic money institution or a small electronic money institution within the meaning of the Electronic Money Regulations 2011 or”.

The Payment Services Regulations 2009

21. The Payment Services Regulations 2009⁽²⁹⁾ are amended as follows—

- (a) in regulation 2(1)—
 - (i) in the definition of “the banking consolidation directive”, at the end insert “as last amended by Directive [2009/111/EC](#)”;
 - (ii) in the definition of “credit institution”, for “Article 4(1)(a)” substitute “Article 4(1)”;
 - (iii) for the definition of “the electronic money directive” substitute—
 - ““the electronic money directive” means Directive [2009/110/EC](#) of the European Parliament and of the Council of 16th September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions;”;
 - (iv) in the definition of “electronic money institution”, for “Article 1(3)(a)” substitute “Article 2(1)”;
 - (v) in the definition of “funds”, for “Article 1(3)(b)” substitute “Article 2(2)”;
- (b) in regulation 13(4)(e), after “these Regulations” insert “or the Electronic Money Regulations 2011”;
- (c) in regulation 53(3), for “Article 1(3)(b)” substitute “Article 2(2)”;
- (d) in regulation 110(1)⁽³⁰⁾, for sub-paragraph (e) substitute—
 - “(e) an electronic money institution which for the purposes of the Electronic Money Regulations 2011 is—
 - (i) registered in the United Kingdom as an authorised electronic money institution or a small electronic money institution; or
 - (ii) an EEA authorised electronic money institution exercising passport rights in the United Kingdom or treated as such by virtue of regulation 75 of those Regulations;”.

⁽²⁸⁾ S.I. 2008/1911.

⁽²⁹⁾ S.I. 2009/209.

⁽³⁰⁾ Regulation 110 was amended by S.I. 2009/2475.