
STATUTORY INSTRUMENTS

2011 No. 99

The Electronic Money Regulations 2011

PART 3

PRUDENTIAL SUPERVISION AND PASSPORTING

Safeguarding

Accounting and statutory audit

25.—(1) An electronic money institution which carries on activities other than the issuance of electronic money and the provision of payment services, must provide to the Authority separate accounting information in respect of its issuance of electronic money and provision of payment services.

(2) Such accounting information must be subject, where relevant, to an auditor's report prepared by the institution's statutory auditors or an audit firm (within the meaning of Directive [2006/43/EC](#) of the European Parliament and of the Council of 17th May 2006 on statutory audits of annual accounts and consolidated accounts⁽¹⁾).

(3) A statutory auditor or audit firm ("the auditor") must, in any of the circumstances referred to in paragraph (4), communicate to the Authority information on, or its opinion on, matters—

- (a) of which it has become aware in its capacity as an auditor of an electronic money institution or of a person with close links to an electronic money institution; and
- (b) which relate to the electronic money issued and payment services provided by that institution.

(4) The circumstances are that—

- (a) the auditor reasonably believes that—
 - (i) there is or has been, or may be or may have been, a contravention of any requirement imposed on the electronic money institution by or under these Regulations; and
 - (ii) the contravention may be of material significance to the Authority in determining whether to exercise, in relation to that institution, any functions conferred on the Authority by these Regulations;
- (b) the auditor reasonably believes that the information on, or the auditor's opinion on, those matters may be of material significance to the Authority in determining whether the institution meets or will continue to meet—
 - (i) in the case of an authorised electronic money institution, the conditions set out in regulation 6(4) to (8) or the requirement in regulation 19(1) to maintain own funds; or
 - (ii) in the case of a small electronic money institution, the conditions set out in regulation 13(6) to (10) or the requirement in regulation 19(2) to maintain own funds;

(1) OJ No L 157, 9.6.2006, p.87.

- (c) the auditor reasonably believes that the institution is not, may not be or may cease to be, a going concern;
 - (d) the auditor is precluded from stating in the auditor's report that the annual accounts have been properly prepared in accordance with the Companies Act 2006;
 - (e) the auditor is precluded from stating in the auditor's report, where applicable, that the annual accounts give a true and fair view of the matters referred to in section 495 of the Companies Act 2006 (auditor's report on company's annual accounts) including as that section is applied and modified by regulation 39 of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008⁽²⁾ ("the LLP Regulations"); or
 - (f) the auditor is required to state in the auditor's report in relation to the person concerned any of the facts referred to in subsection (2), (3) or (5) of section 498⁽³⁾ of the Companies Act 2006 (duties of auditor) or, in the case of limited liability partnerships, subsection (2), (3) or (4) of section 498 as applied and modified by regulation 40 of the LLP Regulations.
- (5) In this regulation a person has close links with an authorised electronic money institution ("A") if that person is—
- (a) a parent undertaking of A;
 - (b) a subsidiary undertaking of A;
 - (c) a parent undertaking of a subsidiary undertaking of A; or
 - (d) a subsidiary undertaking of a parent undertaking of A.

⁽²⁾ [S.I. 2008/1911](#).

⁽³⁾ Section 498(5) was substituted by [S.I. 2008/393](#).