

## SCHEDULE 4

### Amendments to primary and secondary legislation

## 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(1) is amended as follows

(a) in article 2(1), after the definition of “director” insert—

““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—

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“17	A director or manager responsible for the management of the electronic money or payment services business of an electronic money institution.	The Financial Services Authority.
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18	A controller of an electronic money institution.	The Financial Services Authority.”;
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(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(2) 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(3)—

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

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

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

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

- (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(4)—

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

11. The Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001(5) 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(6) 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—

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(4) S.I. 2000/309; relevant amending instruments are S.I. 2006/3221 and 2000/952.

(5) S.I.2001/2511; a relevant amending instrument is S.I. 2002/765.

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

- (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(7)—

- (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(8), 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(9) 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(10), 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(11), 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](#)”.

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

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

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

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

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

### The Pension Protection Fund (Entry Rules) Regulations 2005

18. In regulation 1 of the Pension Protection Fund (Entry Rules) Regulations 2005(12), 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—

““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)(13) 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;

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(12) S.I. 2005/590; relevant amending instruments are S.I. 2009/451 and 2010/2628.

(13) Regulation 17(5) was substituted by S.I. 2009/209.

- (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)(14), 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—  
“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(15), 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(16) 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”;

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(14) Regulation 49A was inserted by S.I. 2009/209.

(15) S.I. 2008/1911.

(16) S.I. 2009/209.

- (c) in regulation 53(3), for “Article 1(3)(b)” substitute “Article 2(2)”; and
- (d) in regulation 110(1)(**17**), 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;”.

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(17) Regulation 110 was amended by [S.I. 2009/2475](#).