

SCHEDULE 2

Amendments of subordinate legislation

The Electronic Money Regulations 2011

196.—(1) The Electronic Money Regulations 2011⁽¹⁾ are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “the Authority”, for “Financial Services Authority” substitute “Financial Conduct Authority”.

(3) In regulation 59 (costs of supervision) for paragraph (1) substitute—

“(1) The functions of the Authority under these Regulations are to be treated for the purposes of paragraph 23 (fees) of Part 3 of Schedule 1ZA to the 2000 Act as functions conferred on the Authority under that Act with the following modifications—

- (a) section 1B(5)(a) of the 2000 Act (the FCA’s general duties) does not apply to the making of rules under paragraph 23 of Part 3 of Schedule 1ZA by virtue of this regulation;
- (b) rules made under paragraph 23 of Part 3 of Schedule 1ZA by virtue of this regulation are not to be treated as regulating provisions for the purposes of section 140A(1) of the 2000 Act (competition scrutiny)⁽²⁾;
- (c) paragraph 23(7) does not apply.”.

(4) In regulation 61 (Authority’s exemption from liability in damages), for “paragraph 19 (exemption from liability in damages) of Part 4 of Schedule 1 to the 2000 Act” substitute “paragraph 25 (exemption from liability in damages) of Part 4 of Schedule 1ZA to the 2000 Act”.

(5) In Schedule 3 (application and modification of legislation)—

(a) in paragraph 1 (disciplinary powers), for sub-paragraph (a)⁽³⁾ substitute—

“(a) for subsection (2) substitute—

“(2) For the purpose of action by the FCA, a person is guilty of misconduct if, while a relevant person, the person has been knowingly concerned in a contravention of the Electronic Money Regulations 2011 by an electronic money issuer which is an electronic money institution, credit institution, credit union or municipal bank.”;

(b) in paragraph 2 (the Tribunal), in sub-paragraph (a), after paragraph (ii) insert—

“(ii) for subsection (7A) substitute—

“(7A) A reference is a “disciplinary reference” for the purposes of this section if it is in respect of any of the following decisions—

- (a) a decision to publish a statement under regulation 50 of the Electronic Money Regulations 2011;
- (b) a decision to impose a penalty under regulation 51 of those Regulations;
- (c) a decision to suspend or impose a restriction on authorisation under regulation 52 of those Regulations;
- (d) a decision to take action under section 66⁽⁴⁾ of the 2000 Act as applied by those Regulations;

(1) [S.I. 2011/99](#).

(2) Substituted by section 24 of the Financial Services Act 2012.

(3) Substituted by Schedule 5 to the Financial Services Act 2012.

(4) Amended by section 12 of and Schedule 2 to the Financial Services Act 2010 and Schedule 5 to the Financial Services Act 2012.

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- (e) a decision to take action under section 345(5) of the 2000 Act as applied by those Regulations.”;”;
- (c) in paragraph 3 (information gathering and investigations)—
 - (i) in sub-paragraph (a)—
 - (aa) in the heading to section 165, for “Authority’s” substitute “Regulator’s”;
 - (bb) in paragraph (iii), for “(b) and (c)” substitute “(b), (c) and (d)”;
 - (ii) for sub-paragraph (b) substitute—
 - “(b) in section 166 (reports by skilled persons)(6)—
 - (i) in subsection (2), for paragraph (a) substitute—
 - “(a) 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 (“A”);
 - (ii) omit subsections (10) and (11);”;
 - (iii) after sub-paragraph (b) insert—
 - “(ba) in section 166A (appointment of skilled person to collect and update information)(7), for each reference to an “authorised person” substitute “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;”;
 - (iv) in sub-paragraph (c)—
 - (aa) in paragraph (i) omit sub-paragraph (aa);
 - (bb) at the end of paragraph (iii) omit “and”;
 - (cc) after paragraph (iii) insert—
 - “(iiia) for subsection (5A) substitute—
 - “(5A) “Investigating authority” means the FCA.”; and”;
 - (v) in sub-paragraph (d)—
 - (aa) in paragraph (i) for sub-paragraph (aa) substitute—
 - “(aa) before paragraph (b) insert—
 - “(ab) a person may have contravened any requirement of or imposed under the Electronic Money Regulations 2011;”;
 - (bb) in paragraph (i)(bb) for “191” substitute “191F(8)”;
 - (cc) for paragraph (iv) substitute—
 - “(iv) for subsection (6), substitute—
 - “(6) “Investigating authority” means the FCA.”;”;
 - (vi) in sub-paragraph (e)(i) omit “, 351”;
 - (vii) in sub-paragraph (f)(iii) for “the Authority” substitute “the FCA”;
 - (d) in paragraph 4 (control over electronic money institutions)—

(5) Substituted by Schedule 13 to the Financial Services Act 2012.

(6) Substituted by Schedule 12 to the Financial Services Act 2012.

(7) Inserted by Schedule 12 to the Financial Services Act 2012.

(8) Inserted by [S.I.2009/534](#) and amended by section 26 of the Financial Services Act 2012.

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- (i) after sub-paragraph (a) insert—
 - “(aa) in section 178**(9)** for subsection (2A) substitute—
 - “(2A) In this Part, “the appropriate regulator” means the FCA.”;
 - (ab) in section 187(2)(b)**(10)** omit “section 187A(3)(b) or”;
 - (ac) omit section 187A**(11)**”;
- (ii) after sub-paragraph (b) insert—
 - “(ba) in section 191A**(12)** omit subsection (4A)”;
- (iii) for sub-paragraph (c) substitute—
 - “(c) in section 191B**(13)** (restriction notices)—
 - (i) omit subsection (2A);
 - (ii) after subsection (2B) insert—
 - “(2C) In a restriction notice, the FCA must direct that voting power to which the notice relates is, until further notice, not to be exercisable.”;
 - (iii) for subsection (3)(b) substitute—
 - “(b) voting power that has been exercised as a result of the acquisition is void,”;
- (iv) after sub-paragraph (c) insert—
 - “(ca) in section 191C**(14)** omit subsection (2A);
 - (cb) in section 191D**(15)** omit subsection (1A)”;
- (v) in sub-paragraph (d), in the inserted section 191EA and in the heading to that section, for “the Authority” substitute “the FCA”;
- (e) in paragraph 5 (auditors and actuaries)—
 - (i) at the end of sub-paragraph (a) omit “and”;
 - (ii) after sub-paragraph (a) insert—
 - “(aa) for references to “appropriate regulator” or “regulator” substitute “FCA”;
 - (ab) omit all references to “recognised investment exchange”;
 - (ac) in section 340**(16)** omit subsections (3A),(5A) and (8)(b);
 - (ad) in section 344**(17)** omit subsection (4);
 - (ae) in section 345**(18)**—
 - (i) in subsection (2)(a) omit “or any particular class of authorised person,”;
 - (ii) omit subsection (2)(b);

(9) Substituted by S.I. 2009/534 and amended by section 26 of the Financial Services Act 2012.

(10) Subsection 187(2) was substituted by section 26 of the Financial Services Act 2012.

(11) Inserted by section 26 of the Financial Services Act 2012.

(12) Inserted by S.I. 2009/534; amended by section 26 of the Financial Services Act 2012.

(13) Inserted by S.I. 2009/534; amended by section 26 of the Financial Services Act 2012.

(14) Inserted by S.I. 2009/534; amended by section 26 of the Financial Services Act 2012.

(15) Inserted by S.I. 2009/534; amended by section 26 of the Financial Services Act 2012.

(16) Amended by Schedule 13 to the Financial Services Act 2012.

(17) Amended by Schedule 13 to the Financial Services Act 2012.

(18) Substituted by Schedule 13 to the Financial Services Act 2012.

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- (iii) in subsection (3)(a), for “FCA-*authorised person*” substitute “*electronic money institution*”;
- (iv) omit subsection (3)(b), (c) and (d);
- (v) omit subsection (4);
- (af) omit section 345A(**19**);
- (ag) in section 345B(**20**)—
 - (i) in paragraph (1) omit “or the PRA proposes to act under section 345A(3)”;
 - (ii) in paragraphs (4) and (7) omit “or the PRA decides to act under section 345A(3)”;
- (ah) in section 345C(**21**) omit “or 345A(4)(b)”;
- (ai) in section 345D(**22**) omit subsections (2) and (9);”;
- (f) in paragraph 6 (restrictions on disclosure of information)—
 - (i) in the heading to section 348, for “*Authority*” substitute “*FCA, PRA*”;
 - (ii) omit “, 351 (*competition information*)”;
 - (iii) in sub-paragraph (a)—
 - (aa) for paragraph (i) substitute—
 - “(i) in subsection (2)(b) for the words from “, the PRA” to the end substitute “under the *Electronic Money Regulations 2011*; and”;
 - (bb) in paragraph (iii)(bb) for “(b) and (c)” substitute “(aa) and (c)”;
 - (cc) in paragraph (iii)(cc) for ““the *Authority*”” substitute “the *FCA*”;
 - (dd) for paragraph (iii)(dd) substitute—
 - “(dd) in paragraph (ea) for “a person mentioned in those paragraphs” substitute “the *FCA*”;
 - (ee) in paragraph (f) for “a person mentioned in those paragraphs” substitute “the *FCA*”;
 - (ee) for paragraph (iv) substitute—
 - “(iv) in subsection (6) for paragraphs (a) and (b) substitute “any body or person appointed under regulation 48 of the *Electronic Money Regulations 2011*”; and”
 - (iv) for sub-paragraph (b) substitute—
 - “(b) in section 349(**23**)—
 - (i) in subsection (2)(c) omit “or the PRA”;
 - (ii) omit subsections (3A) and (3B).”;
- (g) in paragraph 7 (*insolvency*)—
 - (i) after sub-paragraph (a) insert—
 - “(aa) omit references to a recognised investment exchange;”;

(19) Inserted by Schedule 13 to the Financial Services Act 2012.

(20) Inserted by Schedule 13 to the Financial Services Act 2012.

(21) Inserted by Schedule 13 to the Financial Services Act 2012.

(22) Inserted by Schedule 13 to the Financial Services Act 2012.

(23) Amended by section 964 of the Companies Act 2006 c. 46; Schedule 12 to the Financial Services Act 2012; S.I. 2007/1093 and S.I. 2011/1043.

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- (ii) for sub-paragraph (d) substitute—
 - “(d) in section 368(**24**), for “a regulator” in each place it appears substitute “the FCA”.”;
- (h) in paragraph 8 (warning notices and decision notices)—
 - (i) before sub-paragraph (a) insert—
 - “(za) in section 387(**25**) (warning notices), omit subsections (1A) and (3A);”;
 - (ii) in sub-paragraph (a) after for “subsection (2)” substitute “omit subsections (1A) and (2)”;
 - (iii) in sub-paragraph (c)—
 - (aa) before sub-paragraph (i) insert—
 - “(iza) for subsection (1ZB) substitute—
 - “(1ZB) A warning notice falls within this subsection if it is given under—
 - (a) section 67;
 - (b) section 345B;
 - (c) regulation 10 of the Electronic Money Regulations 2011 (including regulation 10 as applied by regulation 15 of those Regulations);
 - (d) regulation 29 of those Regulations;
 - (e) regulation 35 of those Regulations;
 - (f) regulation 53 of those Regulations; or
 - (g) regulation 56 of those Regulations.”;
 - (izb) omit subsection (6A);”;
 - (iv) in sub-paragraph (e) for “(the Authority’s procedures)” substitute “(the FCA’s and PRA’s procedures)”.

(24) Section 368 was amended by schedule 14 to the Financial Services Act 2012.

(25) Amended by Schedule 9 to the Financial Services Act 2012.