

SCHEDULE 6

Application and modification of legislation

PART 1

Application and modification of the 2000 Act

FCA rules

3.—(1) Section 137A of the 2000 Act (the FCA's general rules) ^{M1} applies as if—

- (a) references to authorised persons were references to authorised payment institutions, small payment institutions, registered account information service providers ^{F1}... and electronic money institutions;
- (b) in subsection (1)—
 - (i) the reference in paragraph (a) to the carrying on of regulated activities were to the provision of payment services, and
 - (ii) the reference in paragraph (b) to the carrying on of activities which are not regulated activities were to the carrying on of activities in connection with the provision of payment services;

^{F2}(c)

^{F3}(d)

^{F4}(1A) Section 137B of the 2000 Act (FCA general rules: clients' money, right to rescind etc) applies as if—

- (a) references to authorised persons were references to authorised payment institutions, small payment institutions, registered account information service providers, electronic money institutions and relevant credit unions (“relevant institutions”);
- (b) after subsection (1) there were inserted—

“(1A) Rules relating to the safeguarding of relevant assets held by a relevant institution may—

 - (a) make any provision in relation to those relevant assets which might be made under subsection (1) in relation to clients' money;
 - (b) treat two or more relevant assets as being part of a single asset pool, and make provision for the distribution of assets in that pool;
 - (c) authorise the retention by a relevant institution of income or capital gains accruing in relation to relevant assets;
 - (d) make provision as to the distribution of such income or capital gains which are not to be retained by the relevant institution.”;
- (c) in subsection (2) the references to “clients' money” and “money” were read as including a reference to relevant assets;
- (d) after subsection (3), there were inserted—

“(3A) “Relevant assets” means assets held by a relevant institution to satisfy its obligations to safeguard funds received—

 - (a) in exchange for electronic money that has been issued, or
 - (b) where no electronic money has been issued—

Changes to legislation: The Payment Services Regulations 2017, Paragraph 3 is up to date with all changes known to be in force on or before 18 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (i) from, or for the benefit of, a payment service user for the execution of a payment transaction, or
- (ii) from a payment service provider for the execution of a payment transaction on behalf of a payment service user,

including proceeds derived from the realisation of such assets.

(3B) In subsection (3A), “assets” include—

- (a) money;
- (b) insurance policies, including rights arising under those policies;
- (c) guarantees, including rights arising under those guarantees;
- (d) other investments, whether or not specified by the Treasury under section 22 of the 2000 Act.

(3C) “Relevant credit union” means a credit union which issues electronic money.

(3D) In paragraph (1A)(b), “asset pool” means a collection of assets collectively owned by those persons whose funds the relevant institution is required to safeguard, and in which the relevant institution may also have an interest.”

(1B) Section 137P (control of information rules) of the 2000 Act applies as if—

- (a) references to authorised persons were references to authorised payment institutions, small payment institutions, registered account information service providers and electronic money institutions;
- (b) the reference to “Either regulator” were read as a reference to the FCA.]

(2) Sections 137T (general supplementary powers) and 141A (power to make consequential amendments of references to rules) and Chapter 2 of Part 9A (rules: modification, waiver, contravention and procedural provisions) of the 2000 Act ^{M2} apply in relation to rules made pursuant to sub-paragraph (1) [^{F5}, (1A) or (1B)] as they do in relation to other rules made by the FCA under [^{F6}sections 137A, 137B and 137P] of the 2000 Act, subject to [^{F7}sub-paragraphs (2A) and (3)].

[^{F8}(2A) Section 138C (evidential provisions) applies as if in that section—

- (a) in subsection (1) “by other provisions of this Act” were read as “by or under the Payment Services Regulations 2017”;
- (b) references to “either regulator”, “a regulator”, “that regulator” or to “the regulator making the rule” were read as references to the FCA].

[^{F9}(3) Section 138D (actions for damages) applies as if in that section—

- (a) subsection (1) were omitted;
- (b) in subsection (2), the reference to “an authorised person” were a reference to “an authorised payment institution, a small payment institution, a registered account information service provider or an electronic money institution”;
- (c) subsection (6) were omitted and “private person” has the meaning given in regulation 148(3) of these Regulations (actions for breach of requirement).]

F1 Words in Sch. 6 para. 3(1)(a) omitted (31.12.2020) by virtue of [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1201\)](#), reg. 1(3), [Sch. 2 para. 72\(2\)\(a\)\(i\)](#) (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)

F2 Sch. 6 para. 3(1)(c) omitted (31.12.2020) by virtue of [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I.](#)

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2018/1201), reg. 1(3), **Sch. 2 para. 72(2)(a)(ii)** (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)

- F3** Sch. 6 para. 3(1)(d) omitted (18.9.2023) by virtue of The Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023 (S.I. 2023/790), regs. 1(2)(a), **4(5)(a)(i)**
- F4** Sch. 6 para. 3(1A)(1B) inserted (18.9.2023) by The Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023 (S.I. 2023/790), regs. 1(2)(a), **4(5)(a)(ii)**
- F5** Words in Sch. 6 para. 3(2) inserted (18.9.2023) by The Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023 (S.I. 2023/790), regs. 1(2)(a), **4(5)(a)(iii)(aa)**
- F6** Words in Sch. 6 para. 3(2) substituted (18.9.2023) by The Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023 (S.I. 2023/790), regs. 1(2)(a), **4(5)(a)(iii)(bb)**
- F7** Words in Sch. 6 para. 3(2) substituted (18.9.2023) by The Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023 (S.I. 2023/790), regs. 1(2)(a), **4(5)(a)(iii)(cc)**
- F8** Sch. 6 para. 3(2A) inserted (18.9.2023) by The Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023 (S.I. 2023/790), regs. 1(2)(a), **4(5)(a)(iv)**
- F9** Sch. 6 para. 3(3) substituted (18.9.2023) by The Electronic Money, Payment Card Interchange Fee and Payment Services (Amendment) Regulations 2023 (S.I. 2023/790), regs. 1(2)(a), **4(5)(a)(v)**

Marginal Citations

- M1** Part 9A was substituted by section 24 of the Financial Services Act 2012.
- M2** Chapter 2 was amended by paragraphs 8 and 9 of Schedule 3 to the Financial Services (Banking Reform) Act 2013, paragraph 69 of Schedule 4 to the [Co-operative and Community Benefit Societies Act 2014](#) (c. 14), paragraphs 7 and 8 of Schedule 3 to the [Pension Schemes Act 2015](#) (c. 8), sections 29, 33 and 35 of, and paragraph 35 of Schedule 2 to, the Bank of England and Financial Services Act 2016, [S.I. 2013/1388](#).

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Changes and effects yet to be applied to :

- Regulations power to amend conferred by [2021 c. 22 s. 23](#)