

SCHEDULE 6

Application and modification of legislation

PART 1

Application and modification of the 2000 Act

Disciplinary powers

1. Sections 66 (disciplinary powers) to 70 (statements of policy: procedure) of the 2000 Act ^{M1} apply but as if for section 66A (misconduct: action by the FCA) there were substituted—

(1) For the purposes of action by the FCA, a person is guilty of misconduct if, while a relevant person, the person has been knowingly concerned in

[^{F1}(a)] a contravention of the Payment Services Regulations 2017 by a payment service provider, [^{F2}or

(b) a contravention of a requirement imposed by or under section 312R of the 2000 Act by an authorised payment institution, small payment institution, or registered account information services provider.]

[^{F3}(2) “Relevant person” means—

(a) in relation to subsection (1)(a), any person responsible for the management of the payment service provider or, where relevant, any person responsible for the management of the payment service provider’s payment services activities, or

(b) in relation to subsection (1)(b), any person responsible for the management of the authorised payment institution, small payment institution, or registered account information services provider or, where relevant, any person responsible for the management of the authorised payment institution’s, small payment institution’s, or registered account information services provider’s payment services activities.”].

F1 Word in Sch. 6 para. 1 inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(3), [Sch. 2 para. 72\(a\)\(i\)](#) (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iv)

F2 Words in Sch. 6 para. 1 inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(3), [Sch. 2 para. 72\(a\)\(ii\)](#) (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iv)

F3 Words in Sch. 6 para. 1 substituted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(3), [Sch. 2 para. 72\(a\)\(iii\)](#) (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iv)

Marginal Citations

M1 2000 c. 8. Section 66 was amended by section 12 of, and paragraph 8 of Schedule 2 to, the [Financial Services Act 2010 \(c. 28\)](#), paragraph 14 of Schedule 5 to the [Financial Services Act 2012 \(c. 21\)](#), sections 28 and 32 of, and paragraph 5 of Schedule 3 to, the [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#). Sections 66A and 66B were inserted by section 32 of the Financial Services (Banking Reform) Act 2013 and amended by section 25 of, and paragraphs 16 and 17 of Schedule 4 to, the [Bank of England and Financial Services Act 2016 \(c. 14\)](#), and by S.I. 1015/1864 and 2016/225 and 627. Sections 67 to 70 were amended by paragraphs 9 and 10 of Schedule 2 to the Financial Services Act 2010, paragraphs 15 to 18 of Schedule 5 to the Financial Services Act 2012, paragraphs 6 and 7 of Schedule 3 to the Financial Services (Banking Reform) Act 2013.

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The Upper Tribunal

2. Part 9 of the 2000 Act (hearings and appeals) ^{M2} applies in respect of references to the Upper Tribunal made under these Regulations as it applies in respect of references made to the Upper Tribunal under that Act, with the following modifications—

- (a) section 133 (proceedings before Tribunal: general provision) is to be read as if for subsection (7A) there were substituted—
 - “(7A) A reference is a “disciplinary reference” for the purposes of this section if it is in respect of any of the following decisions under the Payment Services Regulations 2017—
 - (a) a decision to publish a statement under regulation 110;
 - (b) a decision to impose a penalty under regulation 111.”;
- (b) subsection (1) of section 133A (proceedings before Tribunal: decision and supervisory notices, etc.) is to be read as if “, as a result of section 388(2)” were omitted; and
- (c) section 133A is to be read as if subsection (5) were omitted.

Marginal Citations

M2 Part 9 was amended by section 23 of the Financial Services Act 2012, paragraph 83 of Schedule 9 to the [Crime and Courts Act 2013 \(c. 22\)](#) and section 4 of the Financial Services (Banking Reform) Act 2013, and by [S.I. 2010/22](#), [2013/1388](#), [2014/3329](#) and [2016/680](#).

FCA rules

3.—(1) Section 137A of the 2000 Act (the FCA's general rules) ^{M3} applies as if—

- (a) references to authorised persons were references to authorised payment institutions, small payment institutions, registered account information service providers ^{F4}... 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;

^{F5}(c)

^{F6}(d)

[^{F7}(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;

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- (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—
 - (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^{M4} apply in relation to rules made pursuant to sub-paragraph (1) [^{F8}, (1A) or (1B)] as they do in relation to other rules made by the FCA under [^{F9}sections 137A, 137B and 137P] of the 2000 Act, subject to [^{F10}sub-paragraphs (2A) and (3)].
- [^{F11}(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].

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[^{F12}(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).]

- F4** 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)
- F5** 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. 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)
- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** 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)**
- F10** 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)**
- F11** 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)**
- F12** 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

- M3** Part 9A was substituted by section 24 of the Financial Services Act 2012.
- M4** 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](#).

Information gathering and investigations

4. Part 11 of the 2000 Act (information gathering and investigations) ^{M5} applies with the following modifications—

- (a) section 165 (regulators' power to require information) is to be read as if—
 - (i) references to an authorised person were references to a payment service provider;
 - (ii) in subsection (4), for “this Act” there were substituted “ the Payment Services Regulations 2017 ”; and
 - (iii) in subsection (7), paragraphs (b) to (e) were omitted;
- (b) section 166 (reports by skilled persons) is to be read as if—

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- (i) references to an authorised person were references to a payment service provider; and
 - (ii) subsections (10) and (11) were omitted;
- (c) section 166A (appointment of skilled person to collect and update information) is to be read as if references to an authorised person were to a payment service provider;
- (d) section 167 (appointment of persons to carry out general investigations) is to be read as if—
 - (i) references to a recognised investment exchange, an authorised person or an appointed representative were references to a payment service provider;
 - (ii) in subsection (4), references to a former authorised person or appointed representative were to a former payment service provider;
 - (iii) in subsection (5) for “regulated activities” there were substituted “payment services”; and
 - (iv) for subsection (5A) there were substituted—
 - “(5A) “Investigating authority” means the FCA.”;
 - (v) subsection (6) were omitted;
- (e) section 168 (appointment of persons to carry out investigations in particular cases) is to be read as if—
 - (i) in subsection (1)—
 - (aa) after paragraph (b) there were inserted—
 - “(c) a person may have contravened any requirement of or imposed under the Payment Services Regulations 2017 ^{F13} or section 312R];
 - ^{F14}(d);
 - ^{F14}(e)”;
 - (bb) in paragraph (b) for “191F” to the end there were substituted “or under regulation 138, 139, 141 or 142 of the Payment Services Regulations 2017”;
 - (ii) for subsection (2) there were substituted—
 - “(2) Subsection (3) also applies if it appears to an investigating authority that there are circumstances suggesting that a person may be guilty of an offence under, or has contravened a requirement of, the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ^{M6}.”;
 - (iii) subsections (4) and (5) were omitted; and
 - (iv) for subsection (6) there were substituted—
 - “(6) “Investigating Authority” means the FCA.”;
- ^{F15}(f) section 169 (investigations etc in support of overseas regulator) is to be disregarded;]
- (g) section 170 (investigations: general) is to be read as if—
 - (i) in subsection (1) “or (5)” were omitted;
 - (ii) in subsection (3)(a) “or (4)” were omitted; and
 - (iii) for subsection (10) there were substituted—
 - “(10) “Investigating authority” in relation to an investigator means the FCA.”;
- (h) section 171 (powers of persons appointed under section 167) is to be read as if subsections (3A) and (7) were omitted;

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- (i) section 172(4) (additional power of persons appointed as a result of section 168(1) or (4)) is to be read as if “or (4)” were omitted;
- (j) section 174 (admissibility of statements made to investigators) is to be read as if—
 - (i) in subsection (2) “or in proceedings in relation to action to be taken against that person under section 123 to which this section applies” were omitted;
 - (ii) in subsection (3)(a) for “398” there were substituted “ regulation 142 of the Payment Services Regulations 2017 ”;
 - (iii) subsection (3A) were omitted; and
 - (iv) in subsection (4) “or (5)” were omitted;
- (k) section 175(8) (information and documents: supplemental provisions) is to be read as if “or (5)” were omitted;
- (l) section 176 (entry of premises under warrant) is to be read as if—
 - (i) in subsection (3)(a) for “an authorised person or an appointed representative” there were substituted “ a payment service provider ”;
 - (ii) in subsection (10) “or (5)” were omitted;
 - (iii) for subsection (11)(a) there were substituted—
 - “(a) by the FCA under section 165 or 175; or”;
- (m) 177(5)(a) (offences) is to be read as if for “six months” there were substituted “ three months ”.

- F13** Words in [Sch. 6 para. 4\(e\)](#) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(3), [Sch. 2 para. 72\(b\)](#) (with s. 2(3)); S.I. 2023/779, reg. 4(zz)(iv)
- F14** Words in [Sch. 6 para. 4\(e\)\(i\)\(aa\)](#) 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\(3\)\(a\)](#) (with reg. 4, [Sch. 3 Pt. 2](#)) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F15** [Sch. 6 para. 4\(f\)](#) substituted (31.12.2020) by [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\(3\)\(b\)](#) (with reg. 4, [Sch. 3 Pt. 2](#)) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Marginal Citations

- M5** Part 11 was amended by paragraph 54 of Schedule 26 to the [Criminal Justice Act 2003 \(c. 44\)](#), paragraph 33 of Schedule 7 to the Counter-Terrorism Act 2008, section 18 of, and paragraphs 15 to 17 of Schedule 2 to, the Financial Services Act 2010, paragraphs 1 to 14 of Schedule 12 and paragraph 8 of Schedule 18 to the Financial Services Act 2012, paragraph 11 of Schedule 3 to the Pension Schemes Act 2015, paragraphs 36 and 37 of Schedule 2 to the Bank of England and Financial Services Act 2016 and paragraph 9 of Schedule 2 to the [Investigatory Powers Act 2016 \(c.25\)](#), and by S.I. 2001/1090, 2005/1433, 2007/126, 2011/1043, 2012/2554, 2013/1773, 2015/575 and 2016/225 and 680
- M6** [S.I. 2017/692](#).

Control over payment institutions

5. Part 12 of the 2000 Act (control over authorised persons) ^{M7} applies with the following modifications—

- (a) references to a UK authorised person are to be read as references to an authorised payment institution or small payment institution other than one included in the register pursuant to regulation 153(1) (transitional provisions);

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- (b) section 178 (obligation to notify the appropriate regulator) is to be read as if for subsection (2A) there were substituted—
 - “(2A) In this Part, “the appropriate regulator” means the FCA.”;
- (c) section 187(2)(b) (approval with conditions) is to be read as if “section 187A(3)(b) or” were omitted;
- (d) section 187A (assessment: consultation by PRA with FCA) is to be disregarded;
- (e) section 187C (variation etc of conditions) is to be read as if subsection (1) were omitted;
- (f) section 188(1), (2) and (3) (assessment: consultation with EC competent authorities) are to be read as if after “home state regulator” there were inserted “or home state competent authority ”;
- (g) section 191A (objection by the appropriate regulator) is to be read as if subsection (4A) were omitted;
- (h) section 191B (restriction notices) is to be read as if—
 - (i) subsection (2A) were omitted;
 - (ii) after subsection (2B) there were inserted—
 - “(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) there were substituted—
 - “(b) voting power that has been exercised as a result of the acquisition is void.”;
- (i) section 191C (orders for sale of shares) is to be read as if subsection (2A) were omitted;
- (j) section 191D (obligation to notify the appropriate regulator: dispositions of control) is to be read as if subsection (1A) were omitted;
- (k) section 191F (offences) is to be read as if in subsections (8)(a) and (9)(a), for “to a fine not exceeding the statutory maximum” there were substituted in each case “to a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum ”;
- (l) section 191G (interpretation) is to be read as if, in subsection (1), the definition of “UK authorised person” were omitted; and
- (m) section 192 (power to change definitions of control etc) is to be disregarded.

Modifications etc. (not altering text)

- C1** Sch. 6 para. 5 excluded (20.11.2018) by [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1201\)](#), reg. 1(2), [Sch. 3 para. 19\(1\)\(f\)](#) (with reg. 4)

Marginal Citations

- M7** Part 12 was amended by section 26 of the Financial Services Act 2012 and paragraphs 38 to 40 of Schedule 2 to the Bank of England and Financial Services Act 2016, and by [S.I. 2009/534](#), [2011/1043](#) and [1613](#), [2013/3115](#), [2014/3329](#), [2015/534](#), [575](#) and [1755](#) and [2016/1239](#).

Incoming firms: interventions by the FCA

^{F16}6.

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F16 Sch. 6 para. 6 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\(4\)](#) (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)

Auditors and actuaries

7.—^[F17](1) Section 340 (appointment of auditors and actuaries) of the 2000 Act applies with the following modifications—

- (a) references to “the appropriate regulator” and to the “regulator making the rules” are to be read as references to the FCA;
- (b) references to an authorised person are to be read as references to an authorised payment institution or a person required by regulation 39(3) of the Payment Services Regulations 2017 to provide an audit opinion to the FCA;
- (c) subsections (3A), (5A) and (8)(b) were omitted;
- (d) in subsection (5), “(3A) or” were omitted.]

^[F18](2) Sections 341 (access to books etc) to 346 (provision of false or misleading information to auditor or actuary) of the 2000 Act ^{M8} apply with the following modifications—

- (a) references to a regulator are to be read as references to the FCA and references to the PRA are to be disregarded;
- (b) references to an authorised person are to be read as an authorised payment institution or a person required by regulation 39 to provide an audit opinion to the FCA;
- (c) section 344 (duty of auditor or actuary resigning etc. to give notice) is to be read as if for subsection (4) there were substituted—

“(4) In this section “the appropriate regulator” means the FCA.”.

F17 Sch. 6 para. 7(1) 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\(5\)\(b\)\(ii\)](#)

F18 Sch. 6 para. 7 renumbered as Sch. 6 para. 7(2) (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\(5\)\(b\)\(i\)](#)

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M8 Sections 341 to 346 were amended by paragraphs 4 to 7 of Schedule 13 to the Financial Services Act 2012 and paragraph 44 of Schedule 2 to the Bank of England and Financial Services Act 2016, and by [S.I. 2013/3115](#).

Restriction on disclosure of information

8.—(1) Sections 348 (restrictions on disclosure of confidential information by FCA, PRA etc) ^{M9}, 349 (exceptions from section 348) ^{M10} and 352 (offences) ^{M11} of the 2000 Act apply with the following modifications—

- (a) section 348 is to be read as if—
 - (i) in subsection (2)(b) for the words from “, the PRA” to the end there were substituted “ under the Payment Services Regulations 2017 ”;
 - (ii) in subsection (3)(a) for “this Act” there were substituted “ the Payments Services Regulations 2017 ”;

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- (iii) in subsection (5)—
 - (aa) for “this Part”, there were substituted “ the Payment Services Regulations 2017 ”;
 - (bb) paragraphs (aa), (c) and (zd) were omitted;
 - (cc) in paragraph (e) for “paragraphs (a) to (c)” there were substituted “ paragraph (a) ”;
 - (iv) for subsection (6) there were substituted—
 - “(6) In subsection (5)(f), “expert” includes any body or person appointed under regulation 108 of the Payment Services Regulations 2017 to perform a function on behalf of the FCA.”;
 - (v) subsection (8) were omitted.
- (b) section 349 is to be read as if [F19 subsection (3A) was] omitted.

F19 Words in [Sch. 6 para. 8\(1\)\(b\)](#) substituted (31.12.2020) by [The Public Record, Disclosure of Information and Co-operation \(Financial Services\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/681\)](#), regs. 1(3), [9\(3\)\(a\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Marginal Citations

- M9** Section 348 was amended by paragraph 26 of Schedule 2 to the Financial Services Act 2010, paragraph 18 of Schedule 12 to the Financial Services Act 2012, paragraph 5 of Schedule 8 to the Financial Services (Banking Reform) Act 2013 and paragraph 45 of Schedule 2 to the Bank of England and Financial Services Act 2016, and by [S.I. 2016/1239](#).
- M10** Section 349 was amended by section 964 of the [Companies Act 2006 \(c. 46\)](#) and paragraph 19 of Schedule 12 to the Financial Services Act 2012, and by [S.I. 2006/1183](#), [2007/1093](#) and [2011/1043](#).
- M11** Section 352 was amended by paragraph 54 of Schedule 26 to the Criminal Justice Act 2003.

Insolvency

[F20]. The sections of the 2000 Act mentioned in the first column of the Table apply with any modifications shown in the third column.

Section	Subject	Modifications
Generally (for the sections mentioned below)		<p>To be read as if—</p> <p>(a) references to an authorised person or recognised investment exchange were to an authorised payment institution or a small payment institution;</p> <p>(b) references to the appropriate regulator, or to the regulator or a regulator, were to the FCA;</p> <p>(c) references to creditors included users.</p>
Section 356	Powers of FCA to participate in proceedings: company voluntary arrangements	To be read as if subsections (4) and (5) were omitted.

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<i>Section</i>	<i>Subject</i>	<i>Modifications</i>
Section 357	Powers of FCA to participate in proceedings: individual voluntary arrangements	To be read as if subsections (7) and (8) were omitted.
Section 358	Powers of FCA to participate in proceedings: trust deeds for creditors in Scotland	To be read as if subsection (6A) were omitted.
Section 359	Administration order	<p>To be read as if—</p> <p>(a) subsection (1)(b) were omitted;</p> <p>(b) subsection (1)(c) were substituted with—</p> <p>“(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(c) subsection (1A) were omitted;</p> <p>(d) in subsection (3)(a), the reference to an agreement were to a contract for payment services;</p> <p>(e) subsection (3)(b) and (c) were omitted;</p> <p>(f) in subsection (4), the definitions of “agreement”, “authorised deposit taker”, “authorised reclaim fund” and “relevant deposit” were omitted;</p> <p>(g) subsection (5) were omitted.</p>
Section 361	Administrators’ duty to report to FCA	<p>To be read as if—</p> <p>(a) in subsection (2)(a) the reference to the general prohibition were to regulation 138(1) of the Payment Services Regulations 2017;</p> <p>(b) subsection (2)(b) were omitted;</p> <p>(c) subsection (2A) were omitted;</p> <p>(d) in subsection (3)(b) the reference to the general prohibition were to regulation 138(1) of the Payment Services Regulations 2017.</p>
Section 362	Powers of FCA to participate in proceedings	<p>To be read as if—</p> <p>(a) subsection (1)(b) were omitted;</p>

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Section	Subject	Modifications
		(b) subsection (1)(c) were substituted with— “(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (c) subsections (7) and (8) were omitted.
Section 362A	Administrator appointed by company or directors	To be read as if subsection (2B) were omitted.
Section 363	Receivership: powers of FCA to participate in proceedings	To be read as if— (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with— “(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (c) subsection (6) were omitted.
Section 364	Receiver’s duty to report to FCA	To be read as if— (a) in subsection (b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (b) in the words after subsection (b), the words from “and,” to the end were omitted.
Section 365	Voluntary winding up: powers of FCA to participate in proceedings	To be read as if subsection (8) were omitted.
Section 367	Winding-up petitions	To be read as if— (a) subsection (1)(b) were omitted; (b) subsection (1)(c) were substituted with— “(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”; (c) subsection (1A) were omitted; (d) in subsection (4) for “an agreement” there were substituted “a contract for payment services”;

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Section	Subject	Modifications
		(e) subsection (5) were omitted.
Section 370	Liquidator's duty to report to FCA	<p>To be read as if —</p> <p>(a) in subsection (1)(b)(ii), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017,”;</p> <p>(b) in the words after subsection (1)(b), the words from “and,” to the end were omitted;</p> <p>(c) in subsection (2)(b), the reference to the general prohibition were to regulation 138(1) of the Payment Services Regulations 2017.</p>
Section 371	Winding up: powers of FCA to participate in proceedings	<p>To be read as if —</p> <p>(a) subsection (1)(b) were omitted;</p> <p>(b) subsection (1)(c) were substituted with—</p> <p>“(c) is providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(c) subsections (6) and (7) were omitted.</p>
Section 372	Bankruptcy: Petitions	<p>To be read as if —</p> <p>(a) subsection (1A) were omitted;</p> <p>(b) in subsections (3) and (4), the reference to an agreement, in both places it occurs, were to a contract for payment services;</p> <p>(c) in subsections (2) and (6) the reference to subsection (1A), in each place it occurs, were omitted;</p> <p>(d) in subsection (7)(b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(e) subsection (8) were omitted.</p>
Section 373	Bankruptcy: insolvency practitioner's duty to report to FCA	<p>To be read as if —</p> <p>(a) in subsection (1)(b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in</p>

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Section	Subject	Modifications
		<p>contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(b) in the words after subsection (1)(b)(ii), the words from “and,” to the end were omitted;</p> <p>(c) in subsection (1A)(b), the reference to the general prohibition were to regulation 138(1) of the Payment Services Regulations 2017.</p>
Section 374	Bankruptcy: powers of FCA to participate in proceedings	<p>To be read as if —</p> <p>(a) in subsection (5)(b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(b) in subsection (6)(b), for the words from “carrying” to the end there were substituted “providing or has provided payment services in contravention of regulation 138(1) of the Payment Services Regulations 2017.”;</p> <p>(c) subsections (7) and (8) were omitted.</p>
Section 375	Provisions against debt avoidance: right of FCA to apply for an order	<p>To be read as if —</p> <p>(a) in subsection (1)(a), for the words from “carrying” to the end there were substituted “providing payment services (whether or not in contravention of regulation 138 (1) of the Payment Services Regulations 2017);”;</p> <p>(b) in subsection (1)(b) the reference to a regulated activity carried on were to payment services being provided;</p> <p>(c) subsection (1A) were omitted;</p> <p>(d) in subsection (2) “or subsection (1A)(b) (as the case may be)” were omitted.]</p>

F20 Sch. 6 para. 9 substituted (8.7.2021) by [The Payment and Electronic Money Institution Insolvency Regulations 2021 \(S.I. 2021/716\)](#), regs. 2, **48(1)**

Warning notices and decision notices

10. Part 26 of the 2000 Act (notices) ^{M12} applies with the following modifications—

- (a) section 388 (decision notices) is to be read as if subsection (2) were omitted;

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- (b) section 390 (final notices) is to be read as if the reference in subsection (6) to section 384(5) were a reference to regulation 114(2) of these Regulations;
- (c) subsection 391 (publication) is to be read as if—
 - (i) for subsection (1ZB) there were substituted—

“(1ZB) A warning notice falls within this subsection if it is given under regulation 112 of the Payment Services Regulations 2017.”;
 - (ii) in subsection (10), for “has the same meaning as in section 395” there were substituted “ means a notice given under regulation 12(6), (9) or (10)(b) (including as applied by regulation 15 or 19) of, or paragraph 4 of Schedule 5 to, the Payment Services Regulations 2017) ”;
- (d) section 392 (application of sections 393 and 394) is to be read as if for paragraphs (a) and (b) there were substituted—
 - “(a) a warning notice given in accordance with regulations 10(2) (including as applied by regulation 15 or 19), 28(1) (in relation to the cancellation of a registration), 35(2), 112(1) or 115(1) of the Payment Services Regulations 2017;
 - (b) a decision notice given in accordance with regulations 10(3)(a) (including as applied by regulation 15 or 19), 28(2)(a)(i) (in relation to the cancellation of a registration), 35(3)(a), 112(3) or 115(3) of the Payment Services Regulations 2017.”; and
- (e) section 395 (the FCA's and PRA's procedures) is to be read as if in subsection (13) for “in accordance with” to the end there were substituted “ under regulation 12(6), (9) or (10) (b) (including as applied by regulation 15 or 19) of, or paragraph 4 of Schedule 5 to, the Payment Services Regulations 2017 ”.

Marginal Citations

M12 Part 26 was amended by paragraph 11 of Schedule 4 to the [Regulation of Investigatory Powers Act 2000 \(c. 23\)](#), [section 13](#) of, and paragraphs 28 and 29 of Schedule 2 to, the Financial Services Act 2010, sections 17 to 19 and 24 of, and paragraph 37 of Schedule 8, paragraphs 26 to 35 of Schedule 9 and paragraph 8 of Schedule 13 to, the Financial Services Act 2012, section 4 of, and paragraphs 12 to 14 of Schedule 3 to, the Financial Services (Banking Reform) Act 2013, and paragraph 43 of Schedule 10 to the [Investigatory Powers Act 2016 \(c. 25\)](#), and by [S.I. 2006/381](#) and [1433](#), [2007/126](#) and [1973](#), [2009/534](#), [2010/22](#), [2012/916](#), [2013/1388](#) and [3115](#), [2014/2879](#), [2015/1755](#) and [2016/225](#), [680](#), [715](#) and [1239](#).

Limitation on power to require documents

11. Section 413 of the 2000 Act (protected items) applies for the purposes of these Regulations as it applies for the purposes of that Act.

Changes to legislation:

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Changes and effects yet to be applied to :

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