
STATUTORY INSTRUMENTS

2009 No. 209

The Payment Services Regulations 2009

PART 8

ACCESS TO PAYMENT SYSTEMS

General

Application of Part 8

96.—(1) This Part does not apply to the following kinds of payment systems—

- (a) a designated system;
- (b) a payment system consisting solely of payment service providers belonging to the same group where one of the payment service providers enjoys effective control over the others;
- (c) a payment system where the sole payment service provider (whether as a single entity or a group)—
 - (i) acts or is able to act as the payment service provider for both the payer and the payee and is solely responsible for the management of the system; and
 - (ii) licenses other payment service providers to participate in the system subject to their having no right to negotiate fees in respect of the system between or amongst themselves (although they may establish their own pricing in relation to payers and payees).

(2) In paragraph (1)(a), “designated system” means a system which is declared by a designation order for the time being in force under regulation 4 of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999⁽¹⁾ to be a designated system for the purposes of those Regulations.

Prohibition on restrictive rules on access to payment systems

97.—(1) Rules or conditions governing access to, or participation in, a payment system by authorised payment institutions, EEA authorised payment institutions and small payment institutions must—

- (a) be objective, proportionate and non-discriminatory; and
 - (b) not prevent, restrict or inhibit access or participation more than is necessary to—
 - (i) safeguard against specific risks such as settlement risk, operational risk or business risk; or
 - (ii) protect the financial and operational stability of the payment system.
- (2) Paragraph (1) applies only to such small payment institutions as are legal persons.

⁽¹⁾ S.I. 1999/2979.

- (3) Rules or conditions governing access to, or participation in, a payment system which, in respect of payment service providers, payment service users or other payment systems—
- (a) restrict effective participation in other payment systems;
 - (b) discriminate (whether directly or indirectly) between—
 - (i) different authorised payment institutions, or
 - (ii) different small payment institutions,in relation to the rights, obligations or entitlements of participants in the payment system;
or
 - (c) impose any restrictions on the basis that a person is not of a particular institutional status, are prohibited.