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## STATUTORY INSTRUMENTS

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# 2009 No. 209

## The Payment Services Regulations 2009

### PART 2

### REGISTRATION

#### *Authorisation as a payment institution*

#### **Variation of authorisation on Authority's own initiative**

**11.**—(1) The Authority may vary a person's authorisation in any of the ways mentioned in regulation 8 if it appears to the Authority that—

- (a) the person no longer meets, or is unlikely to continue to meet, any of the conditions set out in regulation 6(4) to (8) or, if applicable, the requirement in regulation 18(1) to maintain own funds;
- (b) the person has provided a particular payment service or payment services other than in accordance with the authorisation granted to it;
- (c) the person would constitute a threat to the stability of a payment system by continuing to provide a particular payment service or payment services;
- (d) the variation is desirable in order to protect the interests of consumers; or
- (e) the person's provision of a particular payment service or payment services is otherwise unlawful.

(2) A variation under this regulation takes effect—

- (a) immediately, if the notice given under paragraph (6) states that that is the case;
- (b) on such date as may be specified in the notice; or
- (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.

(3) A variation may be expressed to take effect immediately or on a specified date only if the Authority, having regard to the ground on which it is exercising the power under paragraph (1), reasonably considers that it is necessary for the variation to take effect immediately or, as the case may be, on that date.

(4) The Authority must as soon as practicable after the variation takes effect update the register accordingly.

(5) A person who is aggrieved by the variation of their authorisation under this regulation may refer the matter to the Tribunal.

(6) Where the Authority proposes to vary a person's authorisation under this regulation, it must give the person notice.

(7) The notice must—

- (a) give details of the variation;

- (b) state the Authority's reasons for the variation and for its determination as to when the variation takes effect;
  - (c) inform the person that they may make representations to the Authority within such period as may be specified in the notice (whether or not the person has referred the matter to the Tribunal);
  - (d) inform the person of the date on which the variation takes effect; and
  - (e) inform the person of their right to refer the matter to the Tribunal and the procedure for such a reference.
- (8) The Authority may extend the period allowed under the notice for making representations.
- (9) If, having considered any representations made by the person, the Authority decides—
- (a) to vary the authorisation in the way proposed, or
  - (b) if the authorisation has been varied, not to rescind the variation,
- it must give the person notice.
- (10) If, having considered any representations made by the person, the Authority decides—
- (a) not to vary the authorisation in the way proposed,
  - (b) to vary the authorisation in a different way, or
  - (c) to rescind a variation which has taken effect,
- it must give the person notice.
- (11) A notice given under paragraph (9) must inform the person of their right to refer the matter to the Tribunal and the procedure for such a reference.
- (12) A notice under paragraph (10)(b) must comply with paragraph (7).
- (13) For the purposes of paragraph (2)(c), paragraphs (a) to (d) of section 391(8) of the 2000 Act (publication) apply to determine whether a matter is open to review.