
STATUTORY INSTRUMENTS

2009 No. 209

The Payment Services Regulations 2009

PART 3

AUTHORISED PAYMENT INSTITUTIONS

Accounting and statutory audit

20.—(1) Where an authorised payment institution carries on activities other than the provision of payment services, it must provide to the Authority separate accounting information in respect of its provision of payment services.

(2) Such accounting information must be subject, where relevant, to an auditor's report prepared by the institution's statutory auditors or an audit firm (within the meaning of Directive [2006/43/EC](#) of the European Parliament and of the Council of 17th May 2006 on statutory audits of annual accounts and consolidated accounts ⁽¹⁾).

(3) A statutory auditor or audit firm ("the auditor") must, in any of the circumstances referred to in paragraph (4), communicate to the Authority information on, or its opinion on, matters—

- (a) of which it has become aware in its capacity as auditor of an authorised payment institution or of a person with close links to an authorised payment institution; and
- (b) which relate to payment services provided by that institution.

(4) The circumstances are that—

- (a) the auditor reasonably believes that—
 - (i) there is or has been, or may be or may have been, a contravention of any requirement imposed on the authorised payment institution by or under these Regulations; and
 - (ii) the contravention may be of material significance to the Authority in determining whether to exercise, in relation to that institution, any functions conferred on the Authority by these Regulations;
- (b) the auditor reasonably believes that the information on, or his opinion on, those matters may be of material significance to the Authority in determining whether the institution meets or will continue to meet the conditions set out in regulation 6(4) to (8) and, if applicable, the requirement in regulation 18(1) to maintain own funds;
- (c) the auditor reasonably believes that the institution is not, may not be or may cease to be, a going concern;
- (d) the auditor is precluded from stating in his report that the annual accounts have been properly prepared in accordance with the Companies Act 2006;
- (e) the auditor is precluded from stating in his report, where applicable, that the annual accounts give a true and fair view of the matters referred to in section 495 of the Companies Act 2006 (auditor's report on company's annual accounts) including as it is applied and

(1) OJ No L 157, 9.6.2006, p.87.

modified by regulation 39 of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008⁽²⁾ (“the LLP Regulations”); or

- (f) the auditor is required to state in his report in relation to the person concerned any of the facts referred to in subsection (2), (3) or (5) of section 498⁽³⁾ of the Companies Act 2006 (duties of auditor) or, in the case of limited liability partnerships, subsection (2), (3) or (4) of section 498 as applied and modified by regulation 40 of the LLP Regulations.

(5) In this regulation a person has close links with an authorised payment institution (“A”) if that person is—

- (a) a parent undertaking of A;
- (b) a subsidiary undertaking of A;
- (c) a parent undertaking of a subsidiary undertaking of A; or
- (d) a subsidiary undertaking of a parent undertaking of A.

⁽²⁾ [S.I. 2008/1911](#).

⁽³⁾ Section 498 (5) was substituted by [S.I 2008/393](#).