
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive [2009/110/EC](#) of the European Parliament and of the Council of 16th September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions (“the Directive”) (OJ No L 275, 27.10.2009, p.39). Parts 2 to 4 of these Regulations establish a new authorisation regime for electronic money issuers. This replaces the regime applicable to electronic money institutions and small electronic money issuers which implemented Directive [2000/46/EC](#). The new regime does not apply to credit institutions such as banks and other categories of person described in regulation 2(1).

Part 2 of the Regulations requires the Financial Services Authority (“the FSA”) to establish a register of electronic money institutions and sets out the procedures and conditions for registration. It also sets out the circumstances in which registration may be varied or cancelled. Bodies requiring registration must be registered either as an authorised electronic money institution (regulations 5 to 11) or a small electronic money institution (regulations 12 to 15), depending on the value of electronic money that they issue, the value of payment transactions that they execute and whether they are seeking to establish a branch or provide services in another Member State.

Part 3 of the Regulations sets out the requirements to be met by electronic money institutions and stipulates the conditions for them to establish a branch or provide services in another Member State. These requirements include meeting capital requirements (regulation 19 and Schedule 2) and safeguarding electronic money holders' and payment service users' funds (regulation 20). Electronic money institutions must keep records and provide information to the FSA about accounts (regulations 25 and 27). Authorised electronic money institutions must comply with provisions about outsourcing (regulation 26). Regulations 28 to 30 make provision about the provision of services in another EEA state.

Part 4 of the Regulations sets out provisions about the activities that an electronic money institution may engage in. It sets out the business activities that an institution may undertake by virtue of being registered. It sets out the conditions that apply to such activities including in respect of the grant of credit, the use of payment accounts, issuing electronic money and the provision of services through an agent (regulations 32 to 35). It permits the electronic money issuer to distribute and redeem electronic money through another person (regulation 33). Regulation 36 provides for the responsibilities of an institution that relies on a branch or a third party for operational functions such as issuance, redemption or payment services. Institutions have a duty to notify the FSA of any change in their circumstances relevant to the conditions of their registration (regulation 37).

Part 5 of the Regulations sets out the requirements to be met by all electronic money issuers when issuing and redeeming electronic money. Electronic money must be issued and redeemed at par value (regulation 39) and issuers are not permitted to award interest on the outstanding balances (regulation 45). Redemption must be provided at any time upon request for a period of six years from the end of the contract (regulations 39 and 43). Redemption may be subject to proportionate fees to cover actual costs in certain cases.

Part 6 of the Regulations makes provision in respect of the FSA. In particular, it confers on the FSA functions in relation to the supervision and enforcement of certain provisions of the Regulations (regulations 47 to 58). Regulation 62 and Schedule 3 apply provisions of primary and secondary legislation (with modifications) in respect of the FSA's functions under the Regulations.

Part 7 of the Regulations provides for criminal offences. Regulation 63 makes it an offence for a person to issue electronic money in the United Kingdom unless it is an authorised or small electronic money institution or one of the other permitted categories of electronic money issuer.

Changes to legislation: *The Electronic Money Regulations 2011 is up to date with all changes known to be in force on or before 09 October 2023. 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*

There are also offences relating to false claims to be an electronic money issuer and misleading the FSA. Regulations 74 to 78 make transitional provision for persons who have issued electronic money before 30th April 2011 to continue to do so for a limited time while they take steps to comply with these Regulations. All persons who continue to issue electronic money under the transitional provisions must comply with Parts 5 and 6 of these Regulations. Regulation 79 and Schedule 4 provide for amendments to primary and secondary legislation including provision for the Financial Ombudsman Service to apply.

A Transposition Note setting out how this Directive will be transposed into UK law is available from the Banking and Credit Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ.

A full regulatory impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector has also been prepared. Copies of both documents have been placed in the library of each House of Parliament and are available on HM Treasury's website (www.hm-treasury.gov.uk). A copy of the regulatory impact assessment is also annexed to the Explanatory Memorandum which is available alongside the instrument on the legislation website (<http://www.legislation.gov.uk/>).

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Changes and effects yet to be applied to :

- Sch. 2A para. 1(13) omitted by [S.I. 2019/632 reg. 195](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 2A omitted (31.12.2020) by S.I. 2018/1201, reg. 1(3), Sch. 2 para. 20 (with reg. 4, Sch. 3 Pt. 1))
- Regulations power to amend conferred by [2021 c. 22 s. 23](#)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)
- reg. 13(8)(d) words revoked by [2018 c. 13 Sch. 3 para. 9](#)