

STATUTORY INSTRUMENTS

2012 No. 3122

The Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012

Citation and commencement

1. These Regulations may be cited as the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 and come into force on 15th January 2013.

Interpretation

2.—(1) In these Regulations—

“the 2000 Act” means the Financial Services and Markets Act 2000 ^{M1};

“the Authority” means the [^{F1}Financial Conduct Authority];

“the [^{F2}2009] Regulation” means Regulation (EC) No 924/2009 of the European Parliament and of the Council on cross-border payments in the Community and repealing Regulation 2560/2001 ^{M2};

“the [^{F3}2012] Regulation” means Regulation (EU) No 260/2012 of the European Parliament and of the Council on establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009^{M3};

[^{F4}“the Regulations” means the 2009 Regulation or the 2012 Regulation;]

“payment services”, “payment service provider”, “payment service user” and “payment system” have the same meaning as in the Payment Services Regulations [^{F5}2017].

(2) Expressions used in these Regulations and in a modification to a provision in primary or secondary legislation applied by these Regulations have the same meaning as in these Regulations.

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| F1 | Words in reg. 2(1) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 248(2) |
| F2 | Word in reg. 2(1) substituted (31.12.2020) by The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1199) , regs. 1(2), 3(2)(a) (as substituted by S.I. 2020/1385, regs. 1(4), 45(2)(a)) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1) |
| F3 | Word in reg. 2(1) substituted (31.12.2020) by The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1199) , regs. 1(2), 3(2)(b) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1) |
| F4 | Words in reg. 2(1) substituted (31.12.2020) by The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1199) , regs. 1(2), 3(2)(b) (as substituted by S.I. 2020/1385, regs. 1(4), 45(2)(b)) (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1) |
| F5 | Word in reg. 2(1) substituted (13.1.2018) by The Payment Services Regulations 2017 (S.I. 2017/752) , reg. 1(6), Sch. 8 para. 14 (with reg. 3) |

Changes to legislation: The Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 is up to date with all changes known to be in force on or before 11 February 2024. 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

Marginal Citations

- M1** 2000 c.8. Relevant amending instruments are the [Financial Services Act 2010 \(c. 2\), sections 12\(1\) to \(4\), 13\(1\) to \(4\) and 24\(1\) and \(2\) and Schedule 2, paragraphs 1, 8 to 10, 15 to 17, 20 and 26; S.I. 2009/209, S.I. 2010/22, S.I. 2011/99 and S.I. 2012/916.](#)
- M2** OJ No L 266, 9.10.2009, p.11.
- M3** OJ No L 94, 30.3.2012, p.22.

Functions of the Authority

3. The Authority is to have the functions conferred on it by these Regulations.

Monitoring and enforcement

4.—(1) The Authority must maintain arrangements designed to enable it to determine whether payment service providers on whom requirements are imposed by the [^{F6}Regulations] are complying with them.

(2) The arrangements referred to in paragraph (1) may provide for functions to be performed on behalf of the Authority by any body or person who is, in its opinion, competent to perform them.

(3) The Authority must also maintain arrangements for enforcing the provisions of these Regulations.

(4) Paragraph (2) does not affect the Authority's duty under paragraph (1).

- F6** Words in [regs. 4-18](#) substituted (31.12.2020) by [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\), regs. 1\(2\), 3\(3\)\(a\)](#) (as substituted by [S.I. 2020/1385, regs. 1\(4\), 45\(3\)](#)) (with savings in [S.I. 2019/680, reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Public censure

5. If the Authority considers that a payment service provider has contravened a requirement imposed on it by the [^{F6}Regulations] the Authority may publish a statement to that effect.

- F6** Words in [regs. 4-18](#) substituted (31.12.2020) by [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\), regs. 1\(2\), 3\(3\)\(a\)](#) (as substituted by [S.I. 2020/1385, regs. 1\(4\), 45\(3\)](#)) (with savings in [S.I. 2019/680, reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Financial penalties

6.—(1) The Authority may impose a penalty of such amount as it considers appropriate on a payment service provider who has contravened a requirement imposed on it by the [^{F6}Regulations].

(2) A penalty under this regulation is a debt due from that payment service provider to the Authority and is recoverable accordingly.

- F6** Words in [regs. 4-18](#) substituted (31.12.2020) by [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\), regs. 1\(2\), 3\(3\)\(a\)](#) (as substituted by [S.I. 2020/1385, regs. 1\(4\), 45\(3\)](#)) (with savings in [S.I. 2019/680, reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Proposal to take disciplinary measures

7.—(1) Where the Authority proposes to publish a statement under regulation 5 or to impose a penalty under regulation 6, it must give the payment service provider concerned a warning notice.

(2) The warning notice must set out the terms of the proposed statement or state the amount of the proposed penalty.

(3) If, having considered any representations made in response to the warning notice, the Authority decides to publish a statement under regulation 5 or to impose a penalty under regulation 6, it must without delay give the payment service provider concerned a decision notice.

(4) The decision notice must set out the terms of the statement or state the amount of the penalty.

(5) After a statement under regulation 5 is published, the Authority must send a copy of it to the payment service provider concerned and to any person to whom a copy of the decision notice was given under section 393(4) of the 2000 Act (third party rights) (as applied by paragraph 5 of the Schedule to these Regulations).

Injunctions

8.—(1) If, on the application of the Authority, the court is satisfied—

(a) that there is a reasonable likelihood that a payment service provider will contravene a requirement imposed by the [F6Regulations]; or

(b) that a payment service provider has contravened such a requirement and that there is a reasonable likelihood that the contravention will continue or be repeated,

the court may make an order restraining (or in Scotland, an interdict prohibiting) the contravention.

(2) If, on the application of the Authority, the court is satisfied—

(a) that a payment service provider has contravened a requirement imposed by the [F6Regulations], and

(b) that there are steps which could be taken for remedying the contravention,

the court may make an order requiring that person, and any other person who appears to have been knowingly concerned in the contravention, to take such steps as the court may direct to remedy it.

(3) If, on the application of the Authority, the court is satisfied that—

(a) a payment service provider may have contravened a requirement imposed by the [F6Regulations], or

(b) any person may have been knowingly concerned in the contravention of such a requirement,

it may make an order restraining (or in Scotland, an interdict prohibiting) them from disposing of, or otherwise dealing with, any assets of theirs which it is satisfied they are reasonably likely to dispose of or otherwise deal with.

(4) The jurisdiction conferred by this regulation is exercisable by the High Court and the Court of Session.

(5) In paragraph (2), references to remedying a contravention include references to mitigating its effect.

F6 Words in regs. 4-18 substituted (31.12.2020) by [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\)](#), regs. 1(2), **3(3)(a)** (as substituted by S.I. 2020/1385, regs. 1(4), **45(3)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

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Power of Authority to require restitution

9.—(1) The Authority may exercise the power in paragraph (2) if it is satisfied that a payment service provider has contravened a requirement imposed by the [F⁶Regulations], or has been knowingly concerned in the contravention of such a requirement, and that—

- (a) profits have accrued to the payment service provider concerned as a result of the contravention; or
- (b) one or more persons have suffered loss or been otherwise adversely affected as a result of the contravention.

(2) The power referred to in paragraph (1) is a power to require the payment service provider concerned, in accordance with such arrangements as the Authority considers appropriate, to pay to the appropriate person or distribute among the appropriate persons such amount as appears to the Authority to be just having regard—

- (a) in a case within sub-paragraph (a) of paragraph (1), to the profits appearing to the Authority to have accrued;
- (b) in a case within sub-paragraph (b) of paragraph (1), to the extent of the loss or other adverse effect;
- (c) in a case within both of those sub-paragraphs, to the profits appearing to the Authority to have accrued and to the extent of the loss or other adverse effect.

(3) In paragraph (2) “appropriate person” means a person appearing to the Authority to be someone—

- (a) to whom the profits mentioned in paragraph (1)(a) are attributable; or
- (b) who has suffered the loss or adverse effect mentioned in paragraph (1)(b).

F6 Words in regs. 4-18 substituted (31.12.2020) by [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\)](#), regs. 1(2), **3(3)(a)** (as substituted by S.I. 2020/1385, regs. 1(4), **45(3)**) (with savings in S.I. 2019/680, [reg. 11](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Proposal to require restitution

10.—(1) If the Authority proposes to exercise the power under regulation 9(2), it must give the payment service provider concerned a warning notice.

(2) The warning notice must state the amount which the Authority proposes to require the payment service provider to pay or distribute as mentioned in regulation 9(2).

(3) If, having considered any representations made in response to the warning notice, the Authority decides to exercise the power under regulation 9(2), it must without delay give the person a decision notice.

- (4) The decision notice must—
 - (a) state the amount that the payment service provider concerned is to pay or distribute;
 - (b) identify the person to whom that amount is to be paid or among whom that amount is to be distributed; and
 - (c) state the arrangements in accordance with which the payment or distribution is to be made.

Reference to the Upper Tribunal

11. If the Authority decides to—

- (a) publish a statement under regulation 5;

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- (b) impose a penalty under regulation 6; or
- (c) exercise the power under regulation 9(2),

the payment service provider concerned may refer the matter to the Upper Tribunal.

Complaints

12.—(1) The Authority must maintain arrangements designed to enable payment service users and other interested parties to submit complaints to it that a requirement imposed by the [F6Regulations] has been breached by a payment service provider.

(2) Where it considers it appropriate, the Authority must include in any reply to a complaint under paragraph (1) details of the ombudsman scheme established under Part 16 of the 2000 Act (the Ombudsman Scheme).

F6 Words in regs. 4-18 substituted (31.12.2020) by [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\)](#), regs. 1(2), **3(3)(a)** (as substituted by S.I. 2020/1385, regs. 1(4), **45(3)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Compliance by operators of payment systems

13. The provisions in regulations 4 to 11, and in the 2000 Act as applied and modified by the Schedule to these Regulations, apply to operators of payment systems in respect of requirements imposed by Article 4(2) of the [F72012 Regulation] as they apply to payment service providers.

F7 Words in regs. 4-18 substituted (31.12.2020) by [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\)](#), regs. 1(2), **3(3)(b)** (as substituted by S.I. 2020/1385, regs. 1(4), **45(3)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

Costs of supervision

14.—(1) The functions of the Authority under these Regulations are to be treated for the purposes of [F8paragraph 23 of Part 3 of Schedule 1ZA] to the 2000 Act (fees) as functions conferred on the Authority under that Act.

(2) The 2000 Act applies in relation to those functions with the following modifications—

- (a) section [F91B(5)(a) (regulatory principles to be applied by FCA)] does not apply to the making of rules under [F10paragraph 23 of Part 3 of Schedule 1ZA] by virtue of this regulation;
- (b) rules made under [F10paragraph 23 of Part 3 of Schedule 1ZA] by virtue of this regulation are not to be treated as regulating provisions for the purposes of section [F11140A(1)] (competition scrutiny: interpretation); and
- (c) [F12paragraph 23(7) of Part 3 of Schedule 1ZA] are omitted.

[F13(3) The Authority must in respect of each of its financial years pay to the Treasury any amounts received by it during the year by way of penalties imposed under regulation 6.

(4) The Treasury may give directions to the Authority as to how the Authority is to comply with its duty under paragraph (3).

(5) The directions may in particular—

- (a) specify the time when any payment is required to be made to the Treasury, and

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- (b) require the Authority to provide the Treasury at specified times with information relating to penalties that the Authority has imposed under regulation 6.
- (6) The Treasury must pay into the Consolidated Fund any sums received by them under this regulation.]

F8	Words in reg. 14(1) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 248(3)(a)
F9	Words in reg. 14(2)(a) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 248(3)(b)
F10	Words in reg. 14(2)(a)(b) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 248(3)(a)
F11	Words in reg. 14(2)(b) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 248(3)(c)
F12	Words in reg. 14(2)(c) substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 248(3)(d)
F13	Reg. 14(3)-(6) substituted for reg. 14(3) (1.4.2013) by The Payment to Treasury of Penalties Regulations 2013 (S.I. 2013/429) , regs. 1, 2(7)

Guidance

15.—(1) The Authority may give guidance consisting of such information and advice as it considers appropriate with respect to—

- ^{F14}(a)
- (b) the operation of these Regulations;
- (c) any matters relating to the functions of the Authority under these Regulations;
- (d) any other matters about which it appears to the Authority to be desirable to give information or advice in connection with these Regulations.
- (2) The Authority may—
 - (a) publish its guidance;
 - (b) offer copies of its published guidance for sale at a reasonable price; and
 - (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.

F14	Reg. 15(1)(a) omitted (31.12.2020) by virtue of The Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1199) , regs. 1(2), 3(5)(a) (with savings in S.I. 2019/680 , reg. 11); 2020 c. 1 , Sch. 5 para. 1(1)
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Authority's exemption from liability in damages

16. The functions of the Authority under these Regulations are to be treated for the purposes of paragraph ^{F15}[25] (exemption from liability in damages) of Part 4 of ^{F15}[Schedule 1ZA] to the 2000 Act as functions conferred on the Authority under that Act.

F15	Words in reg. 16 substituted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472) , Sch. 2 para. 248(4)
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Exchange of information

^{F16}17.

F16 Reg. 17 omitted (31.12.2020) by virtue of [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\)](#), regs. 1(2), **3(5)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Civil proceedings

18.—^{F17}(1)

(2) Any contravention by a payment service provider of—

- (a) Article 5(3) or 5(8); or
- (b) Article 8(1),

in the [^{F7}2012 Regulation] is actionable at the suit (or in Scotland, the instance) of a private person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.

(3) A person acting in a fiduciary or representative capacity may bring an action under paragraph (1) or (2) on behalf of a private person if any remedy—

- (a) will be exclusively for the benefit of the private person; and
- (b) cannot be obtained by way of an action brought otherwise than at the suit (or in Scotland, the instance) of the fiduciary or representative.

(4) In this regulation “private person” means—

- (a) any individual, except where the individual suffers the loss in question in the course of providing payment services; and
- (b) any person who is not an individual, except where that person suffers the loss in question in the course of carrying on business of any kind;

but does not include a government, a local authority (in the United Kingdom or elsewhere) or an international organisation.

F7 Words in regs. 4-18 substituted (31.12.2020) by [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\)](#), regs. 1(2), **3(3)(b)** (as substituted by S.I. 2020/1385, regs. 1(4), **45(3)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**

F17 Reg. 18(1) omitted (31.12.2020) by virtue of [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\)](#), regs. 1(2), **3(5)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Derogations under the 2012 European Regulation

^{F18}19.

F18 Reg. 19 omitted (31.12.2020) by virtue of [The Credit Transfers and Direct Debits in Euro \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1199\)](#), regs. 1(2), **3(5)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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Application to Gibraltar

20. These Regulations apply in relation to any branch in the UK of a firm which—

- (a) has its head office in Gibraltar; and
- (b) is authorised in Gibraltar to provide payment services,

as they apply in relation to a payment service provider.

Application and modification of primary and secondary legislation

21. The provisions of primary and secondary legislation set out in the Schedule apply in respect of the Authority's functions under these Regulations with the modifications set out in the Schedule.

Revocation and savings

22.—(1) Subject to paragraph (2), the Cross-Border Payments in Euro Regulations 2010^{M4} (“the 2010 Regulations”) are revoked.

(2) The revocation referred to in paragraph (1) does not affect—

- (a) any action brought by—
 - (i) the Authority using its powers under regulations 4 to 10 of, and the Schedule to, the 2010 Regulations;
 - (ii) a person under regulation 17 of the 2010 Regulations; or
- (b) any references made to the Upper Tribunal under regulation 11 of the 2010 Regulations, before 1st February 2013.

Marginal Citations

M4 [S.I. 2010/89](#).

David Evennett
Desmond Swayne
Two of the Lords Commissioners of Her
Majesty's Treasury

Changes to legislation:

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Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)
- reg. 2(1) words omitted by [S.I. 2018/1199 reg. 3\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 3(2)(a) substituted immediately before IP completion day by S.I. 2020/1385, regs. 1(4), 45(2)(a))
- reg. 2(1) words omitted by [S.I. 2018/1199 reg. 3\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 3(2)(c) substituted immediately before IP completion day by S.I. 2020/1385, regs. 1(4), 45(2)(b))
- reg. 4-18 words substituted by [S.I. 2018/1199 reg. 3\(3\)](#) (This amendment not applied to legislation.gov.uk. Reg. 3(3) substituted immediately before IP completion day by S.I. 2020/1385, regs. 1(4), 45(3))
- reg. 4(1) word substituted by [S.I. 2018/1199 reg. 3\(4\)](#) (This amendment not applied to legislation.gov.uk. Reg. 3(4) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 45(4))