
STATUTORY INSTRUMENTS

2017 No. 1173

The Payment Systems and Services and Electronic Money (Miscellaneous Amendments) Regulations 2017

PART 3

Amendments relating to the Electronic Money Regulations 2011 and the Payment Services Regulations 2017

Amendment of the Electronic Money Regulations 2011

5. In the Electronic Money Regulations 2011(1)—

- (a) in regulation 21(3)(b) (safeguarding option 1) after “assets” insert “, or for holding those funds or assets together with proceeds of an insurance policy or guarantee held in accordance with regulation 22(1)(b)”;
- (b) in regulation 22(1)(b)(ii) (safeguarding option 2) after “proceeds” insert “, or for holding those proceeds together with funds or assets held in accordance with regulation 21(3)”;
- (c) after regulation 79 (amendments to primary and secondary legislation) insert—

“Gibraltar

Application to Gibraltar

80. Schedule 5, which contains provisions concerning the application of these Regulations to Gibraltar, has effect.”;

- (d) after Schedule 4 insert—

“SCHEDULE 5

Regulation 80

Gibraltar

Exercise of deemed passport rights by Gibraltar-based firms

1.—(1) These Regulations apply as set out in sub-paragraphs (2) and (3) in relation to a firm which—

- (a) has its head office in Gibraltar; and
- (b) is authorised in Gibraltar to issue electronic money and provide payment services in accordance with the electronic money directive.

(2) The firm is to be treated as having an entitlement, corresponding to its passport right deriving from the electronic money directive, to establish a branch or provide services in the United Kingdom.

(3) References in these Regulations to—

- (a) an “EEA authorised electronic money institution” are to be treated as references to the firm;
- (b) a “home state competent authority” are to be treated as references to the competent authority (within the meaning of the electronic money directive) in Gibraltar in relation to the firm; and
- (c) a “passport right” are to be treated as references to the entitlement mentioned in sub-paragraph (2).

Exercise by authorised electronic money institutions of deemed passport rights in Gibraltar

2.—(1) For the purposes of these Regulations, an authorised electronic money institution is to be treated as having an entitlement, corresponding to its passport right, to establish a branch or provide services in Gibraltar.

(2) In relation to an authorised electronic money institution which establishes a branch or provides services in Gibraltar, references in these Regulations to—

- (a) an “EEA branch” are to be treated as including references to such a branch;
- (b) an “EEA State” are to be treated as including references to Gibraltar;
- (c) a “host state competent authority” are to be treated as including references to the competent authority (within the meaning of the electronic money directive) in Gibraltar in relation to the institution; and
- (d) a “passport right” are to be treated as including references to the entitlement mentioned in sub-paragraph (1).

Modification of legislation

3.—(1) Section 138L(1) of the 2000 Act (consultation: general exemptions)(2) has effect for the purposes of these Regulations as if modified by adding at the end “or if it is making rules for the purpose of extending rules that apply to EEA authorised electronic money institutions to Gibraltar-based firms”.

(2) Paragraph 14 of Schedule 17 to the 2000 Act (the ombudsman scheme: the scheme operator’s rules)(3) has effect for the purposes of these Regulations as if modified by adding at the end—

“(8) Sub-paragraphs (4), (5) and (6) do not apply if the scheme operator is making rules for the purpose of extending rules that apply to EEA authorised electronic money institutions to Gibraltar-based firms.”.

Firms which have taken action before 13th January 2018

4. Where an authorised electronic money institution or the Authority has taken action before 13th January 2018 under regulation 28, 29 or 34 in respect of the provision of services, the use of an agent or the establishment of a branch in Gibraltar by that authorised

(2) Section 138L was substituted by section 24 of the Financial Services Act 2012.

(3) Paragraph 14 was amended by paragraph 25 of Schedule 11 to the Financial Services Act 2012 and by [S.I. 2015/542](#).

electronic money institution, such action is to be treated as if it had been taken under such regulations as they apply by virtue of paragraph 2.”.