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STATUTORY INSTRUMENTS

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**2017 No. 752**

**FINANCIAL SERVICES AND MARKETS**

**The Payment Services Regulations 2017**

*Made - - - - 18th July 2017*

*Laid before Parliament 19th July 2017*

*Coming into force in accordance with regulation 1*

**THE PAYMENT SERVICES REGULATIONS 2017**

**PART 1**

**Introductory provisions**

1. Citation, commencement and extent
2. Interpretation
3. Exemption for certain bodies

**PART 2**

**Registration**

*The register*

4. The register of certain payment service providers

*Authorisation as a payment institution*

5. Application for authorisation as a payment institution or variation of an existing authorisation
6. Conditions for authorisation as a payment institution
7. Imposition of requirements
8. Variation etc. at request of authorised payment institution
9. Determination of application for authorisation or variation of authorisation
10. Cancellation of authorisation
11. Request for cancellation of authorisation
12. Variation of authorisation on FCA's own initiative

*Registration as a small payment institution*

13. Application for registration as a small payment institution or variation of an existing registration

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14. Conditions for registration as a small payment institution
15. Supplementary provisions
16. Application for authorisation or registration if requirements cease to be met

*Registration as an account information service provider*

17. Application for registration as an account information service provider or variation of an existing registration
18. Conditions for registration as an account information service provider
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21. Authorised payment institutions, small payment institutions and registered account information service providers acting without permission

PART 3

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23. Safeguarding requirements
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*Exercise of passport rights*

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29. Notice of intention from an EEA authorised payment institution
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34. Use of agents
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- 42. Disapplication of certain regulations in the case of low-value payment instruments

### *Single payment service contracts*

- 43. Information required prior to the conclusion of a single payment service contract
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- 46. Information for the payee after execution
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- 48. Prior general information for framework contracts
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- 51. Termination of framework contract
- 52. Information prior to execution of individual payment transaction
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- 62. Provision of information leaflet

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- 66. Charges

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- 67. Consent and withdrawal of consent

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- 68. Confirmation of availability of funds for card-based payment transactions
- 69. Access to payment accounts for payment initiation services
- 70. Access to payment accounts for account information services
- 71. Limits on the use of payment instruments and access to payment accounts
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- 73. Obligations of the payment service provider in relation to payment instruments
- 74. Notification and rectification of unauthorised or incorrectly executed payment transactions
- 75. Evidence on authentication and execution of payment transactions
- 76. Payment service provider's liability for unauthorised payment transactions
- 77. Payer or payee's liability for unauthorised payment transactions
- 78. Payment transactions where the transaction amount is not known in advance
- 79. Refunds for payment transactions initiated by or through a payee
- 80. Requests for refunds for payment transactions initiated by or through a payee

*Execution of payment transactions*

- 81. Receipt of payment orders
- 82. Refusal of payment orders
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- 84. Amounts transferred and amounts received

*Execution time and value date*

- 85. Application of regulations 86 to 88
- 86. Payment transactions to a payment account
- 87. Absence of payee's payment account with the payment service provider
- 88. Cash placed on a payment account
- 89. Value date and availability of funds

*Liability*

- 90. Incorrect unique identifiers
- 91. Non-execution or defective or late execution of payment transactions initiated by the payer
- 92. Non-execution or defective or late execution of payment transactions initiated by the payee
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- 94. Liability of payment service provider for charges and interest
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- 96. Force majeure

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- 107. Application of this Part to requirements of directly applicable EU regulations and FCA rules

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- 109. Reporting requirements
- 110. Public censure
- 111. Financial penalties
- 112. Proposal to take disciplinary measures
- 113. Injunctions
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- 115. Proposal to require restitution
- 116. Restitution orders
- 117. Complaints

#### *Miscellaneous*

- 118. Costs of supervision
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- 120. Guidance
- 121. FCA's exemption from liability in damages
- 122. Application and modification of primary and secondary legislation

## PART 10

### The Payment Systems Regulator

- 123. Interpretation of Part 10
- 124. Functions of the Payment Systems Regulator
- 125. Directions
- 126. Publication of compliance failures and penalties
- 127. Penalties
- 128. Notice of publication of a compliance failure or of imposition of a penalty
- 129. Injunctions
- 130. Appeals: general
- 131. Appeals against directions and publication of compliance failures
- 132. Appeals in relation to penalties
- 133. Complaints
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- 136. Application of other provisions of the 2013 Act

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## PART 11

### General

#### *Contracting out of statutory requirements*

137. Prohibition on contracting out of statutory requirement

#### *Criminal Offences*

138. Prohibition on provision of payment services by persons other than payment service providers  
139. False claims to be a payment service provider or exempt  
140. Defences  
141. Contravention of regulations 57 and 58  
142. Misleading the FCA or the Payment Systems Regulator  
143. Restriction on penalties  
144. Liability of officers of bodies corporate etc  
145. Prosecution of offences  
146. Proceedings against unincorporated bodies

#### *Miscellaneous*

147. Duty to co-operate and exchange of information  
148. Actions for breach of requirements

#### *Transitional and saving provisions*

149. Saving of Payment Services Regulations 2009  
150. Transitional and saving provisions: authorised payment institutions  
151. Transitional and saving provisions: small payment institutions  
152. Transitional provisions: payments through network operators  
153. Transitional and saving provisions: general  
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#### *Gibraltar*

155. Application to Gibraltar

#### *Amendments to legislation*

156. Amendments to primary and secondary legislation  
157. Revocations

#### *Review*

158. Review  
Signature

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### SCHEDULE 1 — Payment Services

#### PART 1 — Payment services

1. Subject to Part 2, the following, when carried out as...  
PART 2 — Activities which do not constitute payment services  
2. The following do not constitute payment services—

SCHEDULE 2 — Information to be included in or with an application for authorisation

1. A programme of operations setting out, in particular, the type...
2. A business plan including a forecast budget calculation for the...
3. Evidence that the applicant holds initial capital for the purposes...
4. Where regulation 23 (safeguarding requirements) applies, a description of the...
5. A description of the applicant's governance arrangements and internal control...
6. A description of the applicant's procedure for monitoring, handling and...
7. A description of the applicant's process for filing, monitoring, tracking...
8. A description of the applicant's business continuity arrangements, including a...
9. A description of the principles and definitions used by the...
10. A statement of the applicant's security policy, including—
11. For an applicant subject to the obligations in relation to...
12. A description of the applicant's structural organisation, including, where applicable,...
13. In relation to each person holding, directly or indirectly, a...
14. (1) The identity of directors and persons who are or...
15. The identity of the auditors of the applicant, if any....
16. (1) The legal status of the applicant and, where the...
17. The address of the head office of the applicant.
18. For the purposes of paragraphs 4, 5, 6 and 12,...
19. In the case of an applicant which proposes to provide...

SCHEDULE 3 — Capital requirements

PART 1 — Initial capital

1. For the purposes of this Part, "initial capital" comprises one...
2. (1) The amount of initial capital referred to in regulations...

PART 2 — Own funds

*Own funds requirement*

3. The amount of own funds referred to in regulation 22(1)(b)...

*Adjustment by the FCA*

4. The FCA may direct that an authorised payment institution must...
5. A direction made under paragraph 4 must be on the...
6. The FCA may make a reasonable charge for making an...

*Provision for start-up payment institutions*

7. If an authorised payment institution has not completed a full...

*Method A*

8. (1) "Method A" means the calculation method set out in...

*Method B*

9. (1) "Method B" means the calculation method set out in...

*Method C*

10. (1) "Method C" means the calculation method set out in...

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*Application of accounting standards*

11. Except where this Schedule provides for a different method of...

SCHEDULE 4 — Prior general information for framework contracts

1. The following information about the payment service provider—
2. The following information about the payment service—
3. The following information about charges, interest and exchange rates—
4. The following information about communication— (a) the means of communication...
5. The following information about safeguards and corrective measures—
6. The following information about changes to and termination of the...
7. The following information about redress— (a) any contractual clause on —...

SCHEDULE 5 — Credit agreements

PART 1 — Prohibitions and restrictions

1. Power to prohibit the entry into credit agreements
2. Power to restrict the entry into credit agreements and to withdraw or vary a restriction

PART 2 — Procedure and appeals

3. Interpretation
4. Notice of prohibition or restriction
5. Application to withdraw or vary prohibition or restriction
6. Notice to the home state competent authority

SCHEDULE 6 — Application and modification of legislation

PART 1 — Application and modification of the 2000 Act

1. Disciplinary powers
2. The Upper Tribunal
3. FCA rules
4. Information gathering and investigations
5. Control over payment institutions
6. Incoming firms: interventions by the FCA
7. Auditors and actuaries
8. Restriction on disclosure of information
9. Insolvency
10. Warning notices and decision notices
11. Limitation on power to require documents

PART 2 — Application and modification of secondary legislation

12. The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001
13. The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

SCHEDULE 7 — Gibraltar

1. Exercise of deemed passport rights by Gibraltar-based firms
2. Exercise by authorised payment institutions of deemed passport rights in Gibraltar
3. Modification of legislation

SCHEDULE 8 — Amendments to legislation

PART 1 — Amendments to primary legislation



1. Consumer Credit Act 1974
2. Financial Services and Markets Act 2000
3. Enterprise Act 2002
4. Financial Services (Banking Reform) Act 2013
  - PART 2 — Amendments to the Electronic Money Regulations 2011
5. Electronic Money Regulations 2011
  - PART 3 — Amendments to other secondary legislation
6. Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
7. Individual Savings Account Regulations 1998
8. Financial Services and Markets Act 2000 (Regulated Activities) Order 2001
9. Child Trust Funds Regulations 2004
10. Financial Services (Distance Marketing) Regulations 2004
11. Investment Bank Special Administration Regulations 2011
12. Consumer Rights (Payment Surcharges) Regulations 2012
13. Postal Services Act 2011 (Disclosure of Information) Order 2012
14. Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012
15. Payment to Treasury of Penalties (Enforcement Costs) Order 2013
16. Financial Services Act 2012 (Relevant Functions in relation to Complaints Scheme) Order 2014
17. Communications Act 2003 (Disclosure of Information) Order 2014
18. Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014
19. Public Interest Disclosure (Prescribed Persons) Order 2014
20. Enterprise Act 2002 (Part 8 EU Infringements) Order 2014
21. Payment to Treasury of Penalties (Enforcement Costs of the Payment Systems Regulator) Order 2015
22. Mortgage Credit Directive Order 2015
23. Small and Medium Sized Business (Credit Information) Regulations 2015
24. Small and Medium Sized Business (Finance Platforms) Regulations 2015
25. Payment Accounts Regulations 2015
26. Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

#### SCHEDULE 9 — Revocations

##### Explanatory Note