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STATUTORY INSTRUMENTS

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**2017 No. 752**

**The Payment Services Regulations 2017**

**PART 11**

General

*Miscellaneous*

**Duty to co-operate and exchange of information**

**147.**—(1) The FCA, the Commissioners and the Payment Systems Regulator [<sup>F1</sup>may] take such steps as they consider appropriate to co-operate with each other and—

<sup>F2</sup>(a) .....

[<sup>F3</sup>(b) the Bank of England; and

(c) any other public authority exercising functions in the United Kingdom in relation to payment service providers,]

for the purposes of the exercise by those bodies of their functions [<sup>F4</sup>under these Regulations and other relevant legislation].

(2) Subject to the requirements of the Data Protection Act 1998 <sup>M1</sup>, section 348 of the 2000 Act (restrictions on disclosure of confidential information by FCA etc.) <sup>M2</sup> (as applied with modifications by paragraph 8 of Schedule 6 to these Regulations), regulation 105 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 <sup>M3</sup> (disclosure by the Commissioners) and any other applicable restrictions on the disclosure of information, the FCA, the Commissioners and the Payment Systems Regulator may provide information to each other and—

(a) the bodies mentioned in paragraph [<sup>F5</sup>(1)(c)];

[<sup>F6</sup>(b) the Bank of England when acting in its capacity as a monetary and oversight authority;]

(c) where relevant, other public authorities responsible for the oversight of payment and settlement systems;

for the purposes of the exercise by those bodies of their functions under [<sup>F7</sup>these Regulations and other relevant legislation].

(3) Part 9 of the Enterprise Act 2002 <sup>M4</sup> (information) does not prohibit disclosure of information under paragraph (2) but a person to whom that Part applies must have regard to the considerations mentioned in section 244 of that Act (specified information: considerations relevant to disclosure) before making any such disclosure.

<sup>F8</sup>(4) .....

**Changes to legislation:** *The Payment Services Regulations 2017, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 14 March 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*

- F1** Word in reg. 147(1) substituted (31.12.2020) by [The Public Record, Disclosure of Information and Co-operation \(Financial Services\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/681\)](#), regs. 1(3), [9\(2\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Reg. 147(1)(a) omitted (31.12.2020) by virtue of [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1201\)](#), reg. 1(3), [Sch. 2 para. 62\(2\)\(a\)](#) (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Reg. 147(1)(b)(c) substituted for reg. 147(b)-(d) (31.12.2020) by [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1201\)](#), reg. 1(3), [Sch. 2 para. 62\(2\)\(b\)](#) (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F4** Words in reg. 147(1) substituted (31.12.2020) by [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1201\)](#), reg. 1(3), [Sch. 2 para. 62\(2\)\(c\)](#) (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in reg. 147(2)(a) substituted (31.12.2020) by [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1201\)](#), reg. 1(3), [Sch. 2 para. 62\(3\)\(a\)](#) (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Reg. 147(2)(b) substituted (31.12.2020) by [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1201\)](#), reg. 1(3), [Sch. 2 para. 62\(3\)\(b\)](#) (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in reg. 147(2) substituted (31.12.2020) by [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1201\)](#), reg. 1(3), [Sch. 2 para. 62\(3\)\(c\)](#) (with reg. 4, Sch. 3 Pt. 2) (as amended by S.I. 2020/56, regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Reg. 147(4) omitted (31.12.2020) by virtue of [The Public Record, Disclosure of Information and Co-operation \(Financial Services\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/681\)](#), regs. 1(3), [9\(2\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M1** 1998 c. 29.
- M2** 2000 c. 8. Section 348 was amended by paragraph 26 of Schedule 2 to the Financial Services Act 2010, paragraph 18 of Schedule 12 to the Financial Services Act 2012, paragraph 5 of Schedule 8 to the Financial Services (Banking Reform) Act 2013 and paragraph 45 of Schedule 2 to the Bank of England and Financial Services Act 2016, and by [S.I. 2016/1239](#).
- M3** [S.I. 2017/692](#).
- M4** 2002 c. 40.

#### Actions for breach of requirements

**148.—(1)** A contravention—

- (a) which is to be taken to have occurred by virtue of regulation 21 (authorised payment institutions, small payment institutions and registered account information service providers acting without permission);
- (b) of a requirement imposed by regulation 23 (safeguarding requirements); or
- (c) of a requirement imposed by or under Part 6 (information requirements for payment services) or 7 (rights and obligations in relation to the provision of payment services),

is actionable at the suit 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.

(2) A person acting in a fiduciary or representative capacity may bring an action under paragraph (1) 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 of the fiduciary or representative.

(3) 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.

(4) Where there has been a contravention of a requirement under regulation 76(5)(b) (payment service provider's liability for unauthorised payment transactions), 77(6) (payer or payee's liability for unauthorised payment transactions), 93(4) (non-execution or defective or late execution of payment transactions initiated through a payment initiation service) or 95 (right of recourse) for a payment service provider to compensate another payment service provider, the payment service provider to which compensation is required to be paid is to be treated for the purposes of this regulation as if it were a private person.

### [<sup>F9</sup>Single Euro Payments Area

**148A.**—(1) If the SEPA Regulation is revoked under regulation 15 of the Credit Transfers and Direct Debits in Euro (Amendment) (EU Exit) Regulations 2018, the Treasury may by regulations make such amendments of regulations 40, 63, 66 and 85 of these Regulations as appear to them to be appropriate in connection with the revocation.

(2) Regulations under this regulation may contain transitional and consequential provisions and savings.

(3) A statutory instrument containing regulations under paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.]

**F9** Reg. 148A inserted (31.12.2020) by [The Electronic Money, Payment Services and Payment Systems \(Amendment and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1201\)](#), reg. 1(3), [Sch. 2 para. 63](#) (with reg. 4, Sch. 3 Pt. 2) (as amended by [S.I. 2020/56](#), regs. 1, 8); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:**

The Payment Services Regulations 2017, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 14 March 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.

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**Changes and effects yet to be applied to :**

- Regulations power to amend conferred by [2021 c. 22 s. 23](#)