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STATUTORY INSTRUMENTS

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**2017 No. 752**

**The Payment Services Regulations 2017**

**PART 2**

**Registration**

*Registration as a small payment institution*

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

**13.**—(1) An application for registration as a small payment institution must contain, or be accompanied by, such information as the FCA may reasonably require.

(2) An application for the variation of a registration as a small payment institution must—

(a) contain a statement of the proposed variation;

(b) contain a statement of the payment services which the applicant proposes to carry on if the registration is varied; and

(c) contain, or be accompanied by, such other information as the FCA may reasonably require.

(3) An application under paragraph (1) or (2) must be made in such manner as the FCA may direct.

(4) At any time after receiving an application and before determining it, the FCA may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application.

(5) Different directions may be given, and different requirements imposed, in relation to different applications or categories of application.

**Conditions for registration as a small payment institution**

**14.**—(1) The FCA may refuse to register an applicant as a small payment institution only if any of the conditions set out in paragraphs (2) to (11) is not met.

(2) The application must comply with the requirements of, and any requirements imposed under, regulations 13 and 20.

(3) The monthly average over the period of 12 months preceding the application of the total amount of payment transactions executed by the applicant, including any of its agents in the United Kingdom, must not exceed 3 million euros.

(4) The business to which the application relates must not include the provision of account information services or payment initiation services.

(5) None of the individuals responsible for the management or operation of the business has been convicted of—

- (a) an offence under Part 7 of the Proceeds of Crime Act 2002 (money laundering)(1) or under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;
- (b) an offence under section 15 (fund-raising), 16 (use and possession), 17 (funding arrangements), 18 (money laundering) or 63 (terrorist finance: jurisdiction) of the Terrorism Act 2000(2);
- (c) an offence under the 2000 Act;
- (d) an offence under regulation 3, 4 or 6 of the Al-Qaida and Taliban (Asset-Freezing) Regulations 2010(3), or regulation 10 of the ISIL (Da'esh) and Al-Qaida (Asset-Freezing) Regulations 2011 (contravention and circumvention of prohibitions)(4);
- (e) an offence under section 11, 12, 13, 14, 15 or 18 of the Terrorist Asset-Freezing etc Act 2010 (offences relating to the freezing of funds etc. of designated persons)(5);
- (f) an offence under these Regulations or the Electronic Money Regulations 2011(6); or
- (g) any other financial crimes.

(6) Where the applicant is a partnership, an unincorporated association or a body corporate, the applicant must satisfy the FCA that any persons having a qualifying holding in it are fit and proper persons having regard to the need to ensure the sound and prudent conduct of the affairs of a small payment institution.

(7) The applicant must satisfy the FCA that—

- (a) where the applicant is a body corporate, the directors;
- (b) the persons responsible for the management of the institution; and
- (c) where relevant, the persons responsible for the management of payment services,

are of good repute and possess appropriate knowledge and experience to provide payment services.

(8) If the applicant is a body corporate which has close links with another person (“CL”) the applicant must satisfy the FCA—

- (a) that those links are not likely to prevent the FCA’s effective supervision of the applicant; and
- (b) if it appears to the FCA that CL is subject to the laws, regulations or administrative provisions of a territory which is not an EEA State (“the foreign provisions”), that neither the foreign provisions, nor any deficiency in their enforcement, would prevent the FCA’s effective supervision of the applicant.

(9) Regulation 6(10) (conditions for authorisation: definition of close links) applies for the purposes of paragraph (8) of this regulation as it applies for the purposes of regulation 6(9).

(10) The applicant’s head office, registered office or place of residence, as the case may be, must be in the United Kingdom.

(11) The applicant must comply with a requirement of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 to be included in a register maintained under those Regulations where such a requirement applies to the applicant.

(1) 2002 c. 29, as amended by sections 102 to 106 of, and paragraphs 173 and 174 of Schedule 4 and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15), paragraphs 129 to 135 of Schedule 8 to the Crime and Courts Act 2013 (c. 22), section 37 of the Serious Crime Act 2015 (c. 9) and sections 10 to 12 of, and paragraphs 37 and 38 of Schedule 5 to, the Criminal Finances Act 2017 (c. 22), and by S.I. 2006/308, 2007/3398.

(2) 2000 c. 11.

(3) S.I. 2010/1197, revoked by S.I. 2011/2742.

(4) S.I. 2011/2742, as renamed by S.I. 2016/937.

(5) 2010 c. 38.

(6) S.I. 2011/99.

(12) For the purposes of paragraph (3) where the applicant has yet to commence the provision of payment services, or has been providing payment services for less than 12 months, the monthly average may be based on the projected total amount of payment transactions over a 12 month period.

(13) In paragraph (5) “financial crime” includes any offence involving fraud or dishonesty and, for this purpose, “offence” includes any act or omission which would be an offence if it had taken place in the United Kingdom.

### **Supplementary provisions**

**15.** Regulations 7 to 12 apply to registration as a small payment institution as they apply to authorisation as a payment institution as if—

- (a) references to authorisation were references to registration;
- (b) in regulation 7 (imposition of requirements), paragraph (4) were omitted;
- (c) in regulation 8 (variation at request of authorised payment institution)—
  - (i) for “an authorised payment institution” there were substituted “small payment institution”; and
  - (ii) for “provided that” to the end there were substituted—

“provided that the FCA is satisfied that the conditions set out in regulation 14(4) to (11) are being or are likely to be met and that the monthly average over any period of 12 months of the total amount of payment transactions executed by the institution, including any of its agents in the United Kingdom, continues not to exceed 3 million euros (“the financial limit”).”;
- (d) in regulation 10(1) (cancellation of authorisation) for sub-paragraph (e) there were substituted—
  - “(e) the person does not meet, or is unlikely to meet, any of the conditions set out in regulation 14(4) to (11) (conditions for registration as small payment institution) or the financial limit referred to in regulation 8 or does not inform the FCA of a major change in circumstances which is relevant to its meeting those conditions or that requirement, as required by regulation 37 (duty to notify change in circumstance);”; and
- (e) in regulation 12(1) (variation of authorisation on FCA’s own initiative) for sub-paragraph (a) there were substituted—
  - “(a) the person does not meet, or is unlikely to meet, any of the conditions set out in regulation 14(4) to (11) or the financial limit referred to in regulation 8;”.

### **Application for authorisation or registration if requirements cease to be met**

**16.** If a small payment institution no longer meets a condition in regulation 14(3), (5) or (10) (conditions for registration as small payment institution) or intends to provide services other than those permitted by regulation 32 (additional activities), the institution concerned must, within 30 days of becoming aware of the change in circumstances, apply for authorisation as a payment institution under regulation 5 or registration as an account information service provider under regulation 17, as appropriate, if it intends to continue providing payment services in the United Kingdom.