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## STATUTORY INSTRUMENTS

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# 2017 No. 752

## The Payment Services Regulations 2017

### PART 2

#### Registration

##### *Authorisation as a payment institution*

#### **Variation of authorisation on FCA's own initiative**

**12.**—(1) The FCA may vary a person's authorisation in any of the ways mentioned in regulation 8 if it appears to the FCA that—

- (a) the person no longer meets, or is unlikely to continue to meet, any of the conditions set out in regulation 6(4) to (9) (conditions for authorisation) or, if applicable, the requirement in regulation 22(1) (capital requirements) to maintain own funds, 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);
- (b) the person has provided a particular payment service or payment services other than in accordance with the authorisation granted to it;
- (c) the person would constitute a threat to the stability of, or trust in, a payment system by continuing to provide a particular payment service or payment services;
- (d) the variation is desirable in order to protect the interests of consumers; or
- (e) the person's provision of a particular payment service or payment services is otherwise unlawful, including where such provision of services is unlawful because the person's registration in a register maintained under regulation 54 or 55 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (duty and power to maintain registers) has been cancelled under regulation 60 of those Regulations (cancellation and suspension of registration).

(2) A variation under this regulation takes effect—

- (a) immediately, if the notice given under paragraph (6) states that that is the case;
- (b) on such date as may be specified in the notice; or
- (c) if no date is specified in the notice, when the matter to which the notice relates is no longer open to review.

(3) A variation may be expressed to take effect immediately or on a specified date only if the FCA, having regard to the ground on which it is exercising the power under paragraph (1), reasonably considers that it is necessary for the variation to take effect immediately or, as the case may be, on that date.

(4) The FCA must as soon as practicable after the variation takes effect update the register accordingly.

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**Changes to legislation:** *The Payment Services Regulations 2017, Section 12 is up to date with all changes known to be in force on or before 22 May 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*

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(5) A person who is aggrieved by the variation of their authorisation under this regulation may refer the matter to the Upper Tribunal.

(6) Where the FCA proposes to vary a person's authorisation under this regulation, it must give the person notice.

(7) The notice must—

- (a) give details of the variation;
- (b) state the FCA's reasons for the variation and for its determination as to when the variation takes effect;
- (c) inform the person that they may make representations to the FCA within such period as may be specified in the notice (whether or not the person has referred the matter to the Upper Tribunal);
- (d) inform the person of the date on which the variation takes effect; and
- (e) inform the person of their right to refer the matter to the Upper Tribunal and the procedure for such a reference.

(8) The FCA may extend the period allowed under the notice for making representations.

(9) If, having considered any representations made by the person, the FCA decides—

- (a) to vary the authorisation in the way proposed, or
- (b) if the authorisation has been varied, not to rescind the variation,

it must give the person notice.

(10) If, having considered any representations made by the person, the FCA decides—

- (a) not to vary the authorisation in the way proposed,
- (b) to vary the authorisation in a different way, or
- (c) to rescind a variation which has taken effect,

it must give the person notice.

(11) A notice given under paragraph (9) must inform the person of their right to refer the matter to the Upper Tribunal and the procedure for such a reference.

(12) A notice under paragraph (10)(b) must comply with paragraph (7).

(13) For the purposes of paragraph (2)(c), paragraphs (a) to (d) of section 391(8) of the 2000 Act (publication) apply to determine whether a matter is open to review.

**Changes to legislation:**

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

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