
STATUTORY INSTRUMENTS

2019 No. 1212

The Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019

PART 3

Amendment of secondary legislation: electronic money and payment services

The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018

7.—(1) Schedule 3 (transitional provisions) to the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 ^{F1} is amended as follows.

(2) In paragraph 1 (interpretation), after sub-paragraph (b) insert—

“(ba) “the 2018 Regulations” means the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018;”.

(3) In paragraph 7, at the beginning of sub-paragraph (1)(d), insert “ except where the person is subject to insolvency proceedings (as defined in regulation 24 of EMR 2011) in the United Kingdom, ”.

(4) In paragraph 12B (continued authorisation for limited purposes), in sub-paragraph (4)—

(a) omit “and” at the end of paragraph (a);

(b) in paragraph (b), after “EMR 2011” insert “ and the Payment Services Regulations 2017 ”;

(c) at the end of paragraph (b) insert—

“, and

(c) a requirement imposed by a home state competent authority and which has effect immediately before exit day continues to have effect on and after that day as if it were imposed by the FCA under regulation 7 of EMR 2011 insofar as it could be imposed by the FCA under that regulation.”.

(5) In paragraph 12E (permitted services), in sub-paragraph (2)—

(a) in paragraph (a) after “pre-existing contract” insert “ or to redeem outstanding electronic money ”;

(b) in paragraph (b) after “pre-existing contract” insert “ or to redeem outstanding electronic money ”.

(6) In paragraph 12F (notification that authorisation no longer required)—

(a) at the end of sub-paragraph (1) insert “ and has redeemed electronic money issued through a branch in the United Kingdom ”;

(b) in sub-paragraph (2), after “pre-existing contracts” insert “ and has redeemed electronic money issued through a branch in the United Kingdom ”; and

(c) omit sub-paragraph (3).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(7) In paragraph 12G (extension period)—

- (a) at the end of sub-paragraph (2)(d) insert “ and the person has redeemed electronic money issued through a branch or an agent in the United Kingdom ”; and
- (b) for sub-paragraph (3) substitute—
 - “(3) “Relevant contract”, in relation to a person to whom paragraph 12B applies, means a contract—
 - (a) which—
 - (i) is a pre-existing contract; or
 - (ii) was entered into in accordance with a wind-down plan approved by the FCA under paragraph 12E(4); and
 - (b) under which the person is obliged to issue electronic money or payment services.”.

(8) For paragraph 12H (supervision and enforcement) substitute—

“Supervision and enforcement of persons to whom paragraph 12B applies

12H.—(1) In relation to a person to whom paragraph 12B applies, the provisions of EMR 2011 (other than those disapplied by paragraph 7(1)) apply while the person is an authorised electronic money institution by virtue of paragraph 12B(4).

- (2) Paragraph 7(2) applies in relation to that person as if the reference—
 - (a) to a person's transitional authorisation were a reference to authorisation by virtue of paragraph 12B(4);
 - (b) to the transition period were a reference to the extension period in paragraph 12G.

Supervision and enforcement of persons to whom paragraph 12L (exemption from prohibition) applies

12HA.—(1) The following sub-paragraphs apply in relation to a person to whom paragraph 12L applies.

(2) Sections 165, 166, 175 and 177 of the 2000 Act, as modified by Schedule 3 to EMR 2011, apply as if the references to an electronic money issuer were references to a person who is exempt from the prohibition in regulation 63(1) of those Regulations by virtue of paragraph 12L.

- (3) If the FCA considers that a person—
 - (a) has not notified the FCA in accordance with paragraph 12C; or
 - (b) has acted in a manner which the FCA considers contrary to the advancement of its objectives under EMR 2011 or the 2018 Regulations,

the FCA may publish a statement to that effect.

(4) The procedure in regulation 53 of EMR 2011 applies to the publication of a statement under sub-paragraph (3) as if the references to regulation 50 were references to this paragraph.

(5) Section 393(4) of the 2000 Act applies to notices issued in accordance with this paragraph in the same way as it applies to notices issued in accordance with regulation 53 in relation to the publication of statements under regulation 50 of EMR 2011 by virtue of paragraph 8 of Schedule 3 to EMR 2011.

(6) The FCA may, if it considers it appropriate to do so, publish information provided under paragraph 12C in respect of a person.

- (7) Publication under sub-paragraph (6) is to be in such a manner as the regulator considers appropriate.”.
- (9) In paragraph 12I (variation and cancellation of authorisation), in sub-paragraph (2)—
- (a) at the end of paragraph (f) insert “ and the 2018 Regulations ”;
 - (b) omit “or” at the end of paragraph (h);
 - (c) in paragraph (i), after “provision of payment services” insert “ or issuance of electronic money ”; and
 - (d) at the end of paragraph (i), insert—
 - “or
 - (j) the person has not submitted a notification in accordance with paragraph 12C.”.
- (10) In paragraph 12L (exemption from prohibition)—
- (a) for sub-paragraph (1) substitute—
 - “(1) A person to whom this paragraph applies is, subject to sub-paragraph (6), exempt from the prohibitions in regulation 138(1) of the Payment Services Regulations 2017 and in regulation 63(1) of EMR 2011 for a period of five years beginning with the exit day, but only to the extent that it is necessary for the person to provide payment services or electronic money services in the United Kingdom to perform a pre-existing contract or to redeem outstanding electronic money.”.
 - (b) after sub-paragraph (5) insert—
 - “(6) A person to whom paragraph applies is exempt from the prohibition in regulation 138(1) of the Payment Services Regulations 2017 only to the extent that it was providing the payment service in the United Kingdom immediately before exit day in accordance with the exercise of an EEA passport right under Title 5 of Directive (EU) 2015/2366 as in force immediately before exit day.”.
- (11) In paragraph 19 (exclusion of certain provisions of Payment Services Regulations 2017)—
- (a) at the beginning of sub-paragraph (1)(d) insert “ except where the person is subject to insolvency proceedings (as defined in regulation 23 of the PSR 2017) in the United Kingdom, ”;
 - (b) in sub-paragraph (2), for “any application for authorisation made by the person”, substitute “ any application for registration made by a person to whom paragraph 14(2)(a)(ii) applies ”.
- (12) In paragraph 26 (continued authorisation for limited purposes), after sub-paragraph (4)(b) insert—
- “(c) a requirement imposed by a home state competent authority and which has effect immediately before exit day continues to have effect on and after that day as if it were imposed by the FCA under regulation 7 of the PSR 2017 insofar as it could be imposed by the FCA under that regulation.”.
- (13) In paragraph 30, omit sub-paragraph (3).
- (14) In paragraph 31, for sub-paragraph (3) substitute—
- “(3) “Relevant contract”, in relation to a person to whom paragraph 26 applies, means a contract—
 - (a) which—
 - (i) is a pre-existing contract; or
 - (ii) was entered into in accordance with a wind-down plan approved by the FCA under paragraph 29(4); and

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) under which the person is obliged to issue electronic money or provide payment services.”.

(15) For paragraph 32 (supervision and enforcement) substitute—

“Supervision and enforcement of persons to whom paragraph 26 applies

32.—(1) In relation to a person to whom paragraph 26 applies, the provisions of the PSR 2017 (other than those disapplied by paragraph 19(1)) apply while the person is an authorised payment institution by virtue of paragraph 26(4)(a)(i) or a registered account information service provider by virtue of paragraph 26(4)(a)(ii).

(2) Paragraph 19(2) applies to that person as if the reference—

- (a) to a person's transitional authorisation were a reference to authorisation by virtue of paragraph 26(4)(a);
- (b) to the transition period is a reference to the extension period in paragraph 31.

Supervision and enforcement of persons to whom paragraph 36 applies

32A.—(1) The following sub-paragraphs apply in relation to a person to whom paragraph 36 applies.

(2) Sections 165, 166, 175 and 177 of the 2000 Act, as modified by paragraph 4 of Schedule 6 to the PSR 2017, apply as if the references to a payment service provider were to a person who is exempt from the prohibition in regulation 138(1) of those Regulations by virtue of paragraph 36.

(3) If the FCA considers that a person—

- (a) has not notified the FCA in accordance with paragraph 27; or
- (b) has acted in a manner which the FCA considers contrary to the advancement of its objectives under the PSR 2017 or the 2018 Regulations,

the FCA may publish a statement to that effect.

(4) The procedure in regulation 112 of the PSR 2017 applies to the publication of a statement under sub-paragraph (3) as if the references to regulation 110 were references to this paragraph.

(5) Section 393(4) of the 2000 Act applies to notices issued in accordance with this paragraph in the same way as it applies to notices issued in accordance with regulation 53 in relation to the publication of statements under regulation 110 of the PSR 2017 by virtue of paragraph 10 of Schedule 6 to the PSR 2017.

(6) The FCA may, if it considers it appropriate to do so, publish information provided under paragraph 27 in respect of a person.

(7) Publication under sub-paragraph (6) is to be in such a manner as the regulator considers appropriate.”.

(16) In paragraph 33 (variation and cancellation of authorisation), in sub-paragraph (2)(f), after “PSR 2017” insert “ and the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 ”.

(17) In paragraph 36 (exemption from prohibition), after sub-paragraph (2) insert—

“(2A) A person to whom this paragraph applies is exempt from the prohibition in regulation 138(1) of the PSR 2017 only to the extent that it was providing the payment service in the United Kingdom immediately before exit day in accordance with the exercise of an EEA passport right under article 3(1) of Directive [2009/110/EC](#) as in force immediately before exit day.”.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

F1 [S.I. 2018/1201](#) as amended prospectively by [S.I. 2019/405](#).

Commencement Information

I1 Reg. 7 in force at 6.9.2019, see reg. 1(2)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Financial Services (Electronic Money, Payment Services and Miscellaneous Amendments) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 2](#)
- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)