

Chapter 15

Guidance on the scope of the Payment Services Regulations 2017

15.4 Small payment institutions, agents and exempt bodies

Q26. What criteria must we meet to be a "small payment institution"?

The conditions are set out in regulation 14 and include the following:

- the average of the preceding 12 months' total amount of payment transactions executed by you, including your agents in the UK, does not exceed 3 million euros (or an equivalent amount) per month;
- your business must not include the provision of account information services or payment initiation services;
- none of the individuals responsible for the management or operation of your business has been convicted of offences relating to money laundering or terrorist financing, the Act, the PSRs 2017 or the PSD regulations or financial crimes;
- if you are a partnership, an unincorporated association, or a body corporate, you must satisfy us that any persons having a qualifying holding in your business 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;
- you must satisfy us that your directors (if you are a body corporate), any persons responsible for the management of your business, and where relevant the persons responsible for the management of your payment services, are of good repute and possess appropriate knowledge and experience to provide payment services;
- if you are a body corporate you must satisfy us that any close links you have with another person are not likely to prevent our effective supervision of you. If it appears to us that you have any close links that are subject to the laws, regulations or administrative provisions of a territory outside of the UK ("the foreign provisions") you must satisfy us that neither the foreign provisions, nor any deficiency in their enforcement, would prevent our effective supervision of you;
- your head office, registered office or place of residence, as applicable, is in the UK; and
- you must comply with the registration requirements of the Money Laundering Regulations 2017, where they apply to you.

Q27. We satisfy the conditions for registration as a small payment institution - does that mean we have to register as one?

No, there are other options available to you. You may choose to become an agent of a payment services provider.

Q28. We only wish to be an agent. Do we need to apply to the FCA and/or PRA for registration?

No. If your principal is a payment institution, it is its responsibility to register you as its agent. You are required to be registered on the Financial Services Register before you provide payment services.

You may act for more than one principal, but each principal must register you as its agent.

An agent can only provide its principal's payment services; the agent cannot provide or purport to provide the services in its own right. A person who behaves, or otherwise holds themselves out, in a manner which indicates (or which is reasonably likely to be understood as indicating) that they are a payment service provider is guilty of an offence under regulation 139 of the PSRs 2017. It must be clear to a customer that the agent is acting on behalf of the principal and the agreement to provide payment services must be between the principal and the customer.

Q29. We are an agent of a credit institution for the purpose of providing payment services. Do we need to apply to the FCA and/or PRA for registration?

No. If you are such an agent of a credit institution which is permitted to provide payment services in the UK, you are not required to be registered under the PSRs 2017. A credit institution will be permitted to provide payment services if it has a Part 4A permission to accept deposits.

Q30. We are an agent of an electronic money institution for the purpose of providing payment services. Do we need to apply to the FCA for registration under the PSRs 2017?

As such an agent you will need to be registered by your principal under the *Electronic Money Regulations*, see ■ PERG 3A Q21.

Q31. We are a credit union. Are we exempt from the regulations?

Yes. You are exempt from the PSRs 2017 by virtue of regulation 3. Note, however, that as a consequence of this the conduct requirements set out in the FCA's Banking: Conduct of Business sourcebook (BCOBS) will apply to you in circumstances in which they would not apply to other payment service providers.

Q32. We are a municipal bank. Are we exempt from the regulations?

Yes. You are exempt from the PSRs 2017 (together with credit unions and the National Savings Bank), by virtue of regulation 3. Unlike credit unions, you are required to notify us if you wish to provide payment services, although you only need to do this once.