

Chapter 3A

Guidance on the scope of the Electronic Money Regulations 2011

3A.5 Exclusions

Q26. Are there any exclusions from the definition of electronic money that we should be aware of?

Yes. The *Electronic Money Regulations* have two express exclusions:

- the first covers monetary value stored on specific payment instruments that may be used only in a limited way (the 'limited network' exclusion) (regulation 3(a)). See ■ PERG 15 Q40 which deals with the same exclusion for the purposes of the *Payment Services Regulations*; and
- the second covers monetary value used to make certain payment transactions resulting from services provided by a provider of electronic communications networks or services in addition to their provision of electronic communications services, where the payment is charged to the related bill (the 'electronic communications exclusion') (regulation 3(b)). See ■ PERG 15 Q41A which deals with the same exclusion for the purposes of the *Payment Services Regulations*.

Q27. We offer branded prepaid cards which consumers can use to purchase goods in a particular shopping centre . Are we issuing electronic money?

Yes, it is likely that you will be issuing *electronic money* unless you are able to fall within an exclusion. The most likely exclusion is the limited network exclusion (see Q26). In our view you will not be able to take advantage of this exclusion here unless:

- it is made clear in the relevant terms and conditions of the card that the purchaser of the value is only permitted to use the card to buy from merchants located within that particular shopping centre with whom you have direct commercial agreements; and
- the facility to use the card to purchase goods and services outside this shopping centre does not exist. A card that can be used at a number of different shopping centres, or where use is restricted only by the terms and conditions that apply to the card and is not functionally restricted to one shopping centre is unlikely to fall within this exclusion.

Q28. [deleted]