

# STATES OF JERSEY



## **DRAFT EU LEGISLATION (PAYMENT SERVICES – SEPA) (JERSEY) REGULATIONS 201-**

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Lodged au Greffe on 20th October 2015  
by the Chief Minister

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**STATES GREFFE**





Jersey

## **DRAFT EU LEGISLATION (PAYMENT SERVICES – SEPA) (JERSEY) REGULATIONS 201-**

### **REPORT**

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This legislation has been prepared in order for Jersey to be approved by the European Payments Council (“EPC”) so that Jersey can join the Single European Payments Area (“SEPA”). The SEPA is the term used to describe a block of countries in which banks may use 2 payment schemes that have been developed by the EPC. The EPC have approved the draft Regulations as meeting the entry criteria.

#### **Background**

The decision to make an application is a result of consultation with and support from the Jersey Bankers’ Association. It will mean that payments in Euros are able to be made by Jersey banks to and from banks in the SEPA that are subject to the protections and support of the SEPA rules (“SEPA Schemes”).

Whilst Jersey remains outside the geographical scope of the SEPA, pan-European euro payments to or from Jersey banks have to be done using non-SEPA payment schemes. Payments made using those non-SEPA schemes are – once the SEPA Schemes reach a critical mass – expected to cost more than payments made using the SEPA Schemes.

The EPC is the co-ordination and decision-making body of the European banking industry in relation to payments. The purpose of the EPC is to support and promote the SEPA. The EPC develops payment schemes and frameworks which help to realise an integrated euro payments market. Its Plenary consists of 70 members representing banks and banking associations operating in the SEPA countries. Currently, the geographical scope of the SEPA encompasses 34 countries:

the 28 Member States of the European Union, Iceland, Liechtenstein and Norway (the 3 EEA countries that are not EU Member States), Switzerland, Monaco, and San Marino.

Where a bank operates from a country that is in the SEPA, it may apply to the EPC to use either or both of the standardised SEPA Schemes that have been developed – covering credit transfers in euro (the SEPA Credit Transfer Scheme) and direct debits in euro (the SEPA Direct Debit Scheme).

Development of the SEPA Schemes is part of an EU-wide initiative that is designed to enable individuals and businesses to make and receive payments in euro – within national boundaries and cross-border – under the same basic conditions, rights and obligations.

The key aim of this initiative is to improve the efficiency of cross-border payments and turn the fragmented national markets for euro payments into a single domestic one that reduces the cost of moving euro funds across Europe. The initiative has included the

development of common standards, procedures and infrastructure to enable economies of scale.

Membership of the SEPA is not to be confused with membership of the euro area, which is an economic and monetary union of 18 EU Member States that have adopted the euro currency as their sole legal tender.

These Regulations would, for euro payments made using the SEPA rules, implement provisions that are substantially equivalent to those in Titles III and IV of the Payment Services Directive and Article 5 (and the associated Annex) of the EU SEPA Regulation.

Any bank registered under the Banking Business (Jersey) Law 1991 and which chooses to offer credit transfers and/or direct debits using the SEPA Schemes would have to comply with the requirements of these Regulations in relation to such transfers only.

Customers of banks that offer credit transfers or direct debits by means of the SEPA Schemes stand to benefit from the conduct of business rules that are contained in these Regulations.

The Jersey Regulations would have no impact on banks registered under the Banking Business (Jersey) Law 1991 that decide not to offer credit transfers or direct debits using the SEPA Schemes.

Similar preparatory work is being undertaken by the governments and relevant competent authorities in Guernsey and the Isle of Man so that those islands can also be included in the geographical scope of the SEPA Schemes. All 3 Crown Dependencies have prepared similar law amendments to these Regulations and are all expected to become part of the SEPA at the same time.

The EPC have decided that their criteria will be met if these draft Regulations are adopted by the States in their current form.

#### **Financial and manpower implications**

There are no financial or manpower costs directly linked to the adoption of these draft Regulations. The banks in Jersey will incur the costs of applying individually to be part of the SEPA.

## Explanatory Note

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The object of these Regulations is to implement Titles III and IV of the Payment Services Directive (as defined in *Regulation 1*) and those of Article 5 of Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22) (Regulation (EU) No 260/2012). The Regulations make provision only for payment services effected using a payment instrument governed by the European Payment Council's SEPA Credit Transfer or Direct Debit Rulebooks.

*Part 1* contains *Regulation 1* which provides definitions for certain terms used in the Regulations such as "SEPA" which is defined to mean single European payments area.

*Part 2* comprises *Regulations 2 to 18* which make provision for the implementation of Title III of the Payment Services Directive relating to information requirements for payment services.

*Regulation 2* makes provision for *Part 2* to apply to a contract for payment services where the services are provided from an establishment maintained by a payment service provider in Jersey and the payment service providers of both the payer and the payee are located within the SEP statutory area. *Regulations 4 to 7* and *15 to 18* apply to payment services provided under a single payment service contract. *Regulation 3* and *Regulations 8 to 18* apply to payment services provided under a framework contract. Except where the payment service user is a consumer, the parties may agree that any or all of the provisions of *Part 2* do not apply to a contract for payment services. The payment transactions listed in *Regulation 2(5)* are also excluded from the application of *Part 2*.

*Regulation 3* makes provision for the disapplication of certain Regulations in the case of low-value payment instruments and applies in respect of payment instruments which, under the framework contract governing their use (a) can be used only to execute individual payment transactions that do not exceed 30 euros or, in relation to payment transactions executed wholly within Jersey, 60 euros; or (b) have a spending limit of 150 euros or, where payment transactions are to be executed wholly within Jersey, 300 euros.

*Regulation 4* requires a payment service provider to provide certain information prior to the conclusion of a single payment service contract. Such information includes the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed; the maximum time in which the payment service will be executed and the charges payable by the payment service user to the user's payment service provider for the payment service and, where applicable, a breakdown of the amounts of such charges.

*Regulation 5* requires a payment service provider to provide or make certain information (such as the amount of charges payable by the payer and the amount of the payment transaction in the currency used in the payment order) available to the payer after receipt of a payment order.

*Regulation 6* requires a payment service provider to provide or make available certain information (such as the amount of the transaction in the currency in which the funds are at the payee's disposal and the credit value date) to a payee after execution of a payment transaction.

*Regulation 7* provides for the avoidance of duplication of information so that a payment service provider is not required to provide or make available under *Regulations 4 to 6*

information which has been provided or made available, or will be provided or made available under *Regulations 8 to 13* by another payment service provider in respect of a framework contract.

*Regulation 8* requires a payment service provider to provide to the payment service user the information referred to in *Schedule 1* (including the name and address of the payment service provider), either in good time before the payment service user is bound by the framework contract or where the contract is concluded at the payment service user's request using a means of distance communication which does not enable provision of such information, immediately after the conclusion of the contract.

*Regulation 9* makes provision for the payment service provider to provide the information referred to in *Schedule 1* and the terms of the framework contract if the payment service user so requests at any time during the contractual relationship.

*Regulation 10* provides for notice of any proposed changes to the existing terms of a framework agreement to be provided by the payment service provider to the payment service user no later than 2 months before the date on which they are to take effect. *Regulation 10* also provides for the acceptance, application and implementation of the changes.

*Regulation 11* provides for the termination of a framework contract and gives the payment service user the power to terminate a framework contract at any time. Where the parties have agreed on a period of notice not exceeding one month, the payment service user may terminate the framework contract by giving at least that period of notice.

*Regulation 12* provides that where an individual payment transaction under a framework contract is initiated, the payment service provider shall, on request by the payer, inform the payer of the maximum execution time, the charge payable and, where applicable, a breakdown of the amounts of such charges.

*Regulation 13* requires a payer's payment service provider under a framework contract to provide the payer with certain information as soon as is reasonably practicable either, after the amount of an individual payment transaction is debited from the payer's payment account or, where the payer does not use a payment account, after receipt of the payment order. Such information includes a reference enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee and the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order.

*Regulation 14* requires a payee's payment service provider to provide information (such as the amount of the payment transaction, the charges payable and the credit value date) to the payee on individual payment transactions as soon as is reasonably practicable after the execution of an individual payment transaction under a framework contract.

*Regulation 15* requires that for information provided or made available in accordance with *Part 2* to be provided or made available in the case of single payment service contracts, in an easily accessible manner and generally on paper or on another durable medium, in an easily understandable language and in a clear and comprehensible form and in English or in the language agreed by the parties.

*Regulation 16* prohibits a payment service provider from charging for providing or making available information which is required to be provided or made available by *Part 2* but provides for the payment service provider and the payment service user to agree on charges for any information which is provided at the request of the payment service user where such information is additional to the information required to be provided or made available by *Part 2* or is provided more frequently than is specified

in that Part; or is transmitted by means of communication other than those specified in the framework contract. Any charges imposed must reasonably correspond to the payment service provider's actual costs.

*Regulation 17* requires a party offering a currency conversion service to disclose to the payer before the initiation of a payment transaction, all charges as well as the exchange rate to be used for converting the payment transaction.

*Regulation 18* requires a payee to inform the payer of any charge requested or reduction offered by the payee for the use of a particular payment instrument before the initiation of a payment transaction.

*Part 3* comprises *Regulations 19 to 44* which provide for the implementation of Title IV of Payment Services Directive which deals with rights and obligations in relation to the provision of payment services.

*Regulation 19* provides for *Part 3* to apply to a contract for payment services where the services are provided from an establishment maintained by a payment service provider in Jersey and the payment service providers of both the payer and the payee are located within the SEP statutory area.

*Regulation 20* provides for the disapplication of certain provisions of the Regulations in the case of low value payment instruments.

*Regulation 21* provides for the payment of the payment service provider.

*Regulation 22* requires the consent of a payer for authorization of a payment transaction and provides for the withdrawal of such consent in relation to the execution of a series of payment transactions at any time.

*Regulation 23* provides for limits on the use of payment instruments including spending limits.

*Regulation 24* imposes obligations on a payment service user in relation to payment instruments.

*Regulation 25* imposes obligations on a payment service provider in relation to payment instruments.

*Regulation 26* entitles a payment service user to redress where notification of an unauthorized or incorrectly executed payment transaction is given to the payment service provider within a specified time.

*Regulation 27* requires that where a payment service user denies having authorized an executed payment transaction or claims that a payment transaction has not been correctly executed it is for the payment service provider to prove that the payment transaction was authenticated, accurately recorded, entered in the payment service provider's accounts and not affected by a technical breakdown or some other deficiency.

*Regulation 28* requires a payment service provider to refund the amount of an unauthorized payment transaction to the payer; and where applicable, restore the debited payment account to the state it would have been in had the unauthorized payment transaction not taken place.

*Regulation 29* makes the payer liable for a maximum of £50 for any losses incurred in respect of unauthorized payment transactions arising from the use of a lost or stolen payment instrument or where the payer has failed to keep the personalized security features of the payment instrument safe, from the misappropriation of the payment instrument. The payer is also liable for all losses incurred in respect of an unauthorized payment transaction where the payer has acted fraudulently or has with intent or gross negligence failed to comply with *Regulation 24*.

*Regulation 30* entitles a payer to a refund from its payment service provider of the full amount of any authorized payment transaction initiated by or through the payee where the authorization did not specify the exact amount of the payment transaction when the authorization was given in accordance with *Regulation 22* and the amount of the payment transaction exceeded the amount that the payer could reasonably have expected taking into account the payer's previous spending pattern, the conditions of the framework contract and the circumstances of the case.

*Regulation 31* provides for requests for refunds for payment transactions initiated by or through a payee to be made within 8 weeks from the date on which the funds were debited.

*Regulation 32* provides for the time of receipt of a payment order to be the time at which the payment order, given directly by the payer or indirectly by or through a payee, is received by the payer's payment service provider. If the time of receipt of a payment order does not fall on a business day for the payer's payment service provider, the payment order shall be taken to have been received on the first business day thereafter. The payment service provider has the discretion to set a time towards the end of a business day after which any payment order received shall be taken to have been received on the following business day.

*Regulation 33* provides for a payment service provider to notify the payment service user of the refusal to execute a payment order; if possible, the reasons for such refusal and where it is possible to provide reasons for the refusal and those reasons relate to factual matters, the procedure for rectifying any factual errors that led to the refusal.

*Regulation 34* provides for the revocation of a payment order.

*Regulation 35* makes provision for the payment service providers of the payer and payee to ensure that the full amount of a payment transaction is transferred and that no charges are deducted from the amount transferred. However, the payee and its payment service provider may agree that the payment service provider deduct its charges from the amount transferred before crediting it to the payee provided that the full amount of the payment transaction and the amount of the charges are clearly stated in the information provided to the payee.

*Regulation 36* imposes an obligation on a payer's payment service provider to ensure that the amount of the payment transaction is credited to the payee's payment service provider's account by the end of the business day following the time of receipt of the payment order. Where a payment transaction is initiated by way of a paper payment order, the reference to the end of the business day following the time of receipt of the payment order must be treated as a reference to the end of the second business day following the time of receipt of the payment order.

*Regulation 37* imposes an obligation on a payment service provider who accepts funds on behalf of a payee who does not have a payment account with that payment service provider to make the funds available to the payee immediately after the funds have been credited to that payment service provider's account.

*Regulation 38* provides for the credit value date for the payee's payment account to be no later than the business day on which the amount of the payment transaction is credited to the account of the payee's payment service provider. The payee's payment service provider is required to ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount has been credited to that payment service provider's account. *Regulation 38* also provides for the debit value date for the payer's payment account to be no earlier than the time at which the amount of the payment transaction is debited to that payment account.



*Regulation 39* provides for a payment order to be taken to be correctly executed if it is executed by each payment service provider involved in executing the payment order with respect to the payee specified by the unique identifier. A payment service provider is not liable under *Regulation 40 or 41* for non-execution or defective execution of a payment transaction where the unique identifier provided by the payment service user is incorrect, but the payment service provider must make reasonable efforts to recover the funds involved in the payment transaction and may, if agreed in the framework contract, charge the payment service user for any such recovery.

*Regulation 40* provides for a payment service provider to be liable to the payer for the correct execution of the payment transaction initiated by the payer unless it can prove to the payer and, where relevant, to the payee's payment service provider, that the payee's payment service provider received the amount of the payment transaction in accordance with *Regulation 36*.

*Regulation 41* provides for the liability of a payment service provider for the non-execution or defective execution of payment transactions initiated by the payee.

*Regulation 42* provides for the liability of a payment service provider for charges and interest as a consequence of the non-execution or defective execution of the payment transaction.

*Regulation 43* gives a payment service provider a right to compensation where the liability of a payment service provider under *Regulation 40 or 41* is attributable to another payment service provider or an intermediary.

*Regulation 44* provides protection from liability for contravention of a requirement imposed on it under *Part 4* in cases where the contravention is due to abnormal and unforeseeable circumstances beyond the person's control, the consequences of which would have been unavoidable despite all efforts to the contrary or where the contravention is due to the obligations of the payment service provider under other provisions of Jersey law.

*Part 4* makes provision for the implementation of Article 5 of Regulation (EU) No 260/2012.

*Regulation 45* contains definitions for terms used in *Part 4*.

*Regulation 46* sets out the object of *Part 4*.

*Regulation 47* makes *Part 4* applicable to SEPA credit transfer transactions and SEPA direct debit transactions where both the payer's payment service provider and the payee's payment service provider are located in the SEP statutory area, or where the sole payment service provider involved in the transaction is located in the SEP statutory area. Certain payment transactions are excluded under *Regulation 47(2)*.

*Regulation 48* introduces the requirements for carrying out credit transfer and direct debit transactions.

*Regulation 49* contains transitional provisions.

*Part 5* contains *Regulations 51 to 53* which are miscellaneous provisions.

*Regulation 50* provides for supervision of payment service providers by the Commission.

*Regulation 51* provides the Commission with enforcement and monitoring powers and in that regard makes certain provisions of the Financial Services (Jersey) Law 1998 applicable in certain circumstances.

*Regulation 52* gives the Minister the power by Order to amend *Regulation 1* and *Schedule 1 or 2* for the purpose of ensuring that these Regulations are in harmony with

EU instruments (including the purpose of extending the operation of these Regulations to further payment services or further payment transactions).

*Regulation 53* provides for the citation of the Regulations and provides for the Regulations to come into force 3 months after they are made.

Note. Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, the standard scale of fines is –

Level 1	£50
Level 2	£500
Level 3	£2,000
Level 4	£5,000.



Jersey

## DRAFT EU LEGISLATION (PAYMENT SERVICES – SEPA) (JERSEY) REGULATIONS 201-

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Jersey

## **DRAFT EU LEGISLATION (PAYMENT SERVICES – SEPA) (JERSEY) REGULATIONS 201-**

*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014<sup>1</sup>, have made the following Regulations –

### **PART 1**

#### **INTERPRETATION**

##### **1 Interpretation**

(1) In these Regulations, unless the context otherwise requires –

“BBAN” means a payment account number identifier which uniquely identifies an individual payment account with a payment service provider and which can only be used for national SEPA payments;

“BIC” means business identifier code, being a code that unambiguously identifies a payment service provider, the elements of which are specified by ISO 13616, published by the International Organization for Standardization;

“branch” means a place of business of a payment service provider, other than its head office, being a place of business that –

- (a) has no legal personality;
- (b) forms a legally dependent part of the payment service provider; and
- (c) carries out directly all or some of the transactions inherent in the business of the payment service provider;

“business day” means, in relation to a payment service provider, a day on which the payment service provider is open for business as required for the execution of a payment transaction;

“charge” means a charge levied by a payment service provider on the payment service user and directly or indirectly linked to a payment transaction;

“commencement day” means the day on which these Regulations come into force;

“Commission” means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998<sup>2</sup>;

“consumer” means a natural person when acting for purposes other than his or her trade, business or profession;

“direct debit” means a payment service for debiting the payer’s payment account where a payment transaction is initiated by the payee on the basis of consent given by the payer –

- (a) to the payee;
- (b) to the payee’s payment service provider; or
- (c) to the payer’s own payment service provider;

“direct debit scheme” means a common set of rules, practices and standards agreed between payment service providers for the execution of direct debit transactions;

“durable medium” means any instrument which –

- (a) enables a payment service user to store information (being information addressed personally to the user) in such a way as to be accessible for future reference for a period adequate for the purposes of the information; and
- (b) allows the unchanged reproduction of the information stored;

“electronic money” has the same meaning as in the Community Provisions (Wire Transfers) (Jersey) Regulations 2007<sup>3</sup>;

“EPC” means the European Payments Council, being the *association internationale sans but lucratif* of that name constituted under Title III of the *Loi sur les associations sans but lucratif, les associations internationales sans but lucratif et les fondations* of 27th June 1921 of the Kingdom of Belgium;

“framework contract” means a payment service contract which governs the future execution of individual and successive payment transactions and which may contain the obligation and conditions for setting up a payment account;

“funds” means banknotes, coins, scriptural money or electronic money;

“group” means a group of undertakings which consists of a parent undertaking, its subsidiary undertakings and the entities in which the parent undertaking or its subsidiary undertakings have a holding, as well as undertakings linked to each other by a relationship referred to in Article 12(1) of the Seventh Council Directive of 13 June 1983 based on the Article 54(3)(g) of the Treaty on consolidated accounts (83/349/EEC) (OJ L 193, 18.7.1983, p. 1);

“IBAN” means international bank account number, being an international payment account number identifier that uniquely identifies an individual account with a unique payment service provider, the elements of which are specified by ISO 13616, published by the International Organization for Standardisation;

“means of distance communication” means any means which, without the simultaneous physical presence of the payment service provider and the



payment service user, may be used for the conclusion of a contract for payment services between those parties;

“Minister” means the Chief Minister;

“national SEPA payment” means an electronically processed payment transaction initiated by a payer, or by or through a payee, where the payer’s payment service provider and the payee’s payment service provider are located in Jersey;

“payee” means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;

“payer” means a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order;

“payment account” means an account held in the name of one or more payment service users which is used for the execution of payment transactions;

“payment instrument” means any –

- (a) personalized device; or
- (b) personalized set of procedures agreed between the payment service user and the payment service provider,

used by the payment service user in order to initiate a payment order;

“payment order” means an instruction by a payer or payee to his or her payment service provider requesting the execution of a payment transaction;

“payment scheme” means a single set of rules, practices, standards or implementation guidelines, or all or some of these, agreed between payment service providers for the execution of payment transactions within the SEP statutory area, and which is separated from any infrastructure or payment system that supports its operation;

“payment service” means any of the following activities, when carried out as a regular occupation or business activity –

- (a) the execution of payment transactions, including transfers of funds on a payment account with the user’s payment service provider or with another payment service provider, including –
  - (i) the execution of direct debits, including one-off direct debits, and
  - (ii) the execution of credit transfers, including standing orders;
- (b) the execution of payment transactions where the funds are covered by a credit line for a payment service user, including –
  - (i) the execution of direct debits, including one-off direct debits, and
  - (ii) the execution of credit transfers, including standing orders;

“payment service provider” means a person (being a person registered under the Banking Business (Jersey) Law 1991<sup>4</sup>) when –

- (a) the person is carrying out payment services in or from within Jersey; or
- (b) being a legal person established under Jersey law, the person is carrying out payment services in any part of the world other than in or from within Jersey;

“payment service user” means a natural or legal person making use of a payment service in the capacity of either payer or payee, or both;

“Payment Services Directive” means Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007, p. 1);

“payment system” means a funds transfer system with formal and standardized arrangements and common rules for the processing, clearing or settlement of payment transactions;

“payment transaction” means an act –

- (a) initiated by a payer or by or through a payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee; and
- (b) effected using a payment instrument governed by the SEPA Credit Transfer Scheme Rulebook (as in force from time to time) published by the EPC or the SEPA Direct Debit Core Scheme Rulebook (as in force from time to time) or the SEPA Direct Debit Business to Business Scheme Rulebook (as in force from time to time) published by the EPC;

“reference exchange rate” means the exchange rate which is used as the basis to calculate any currency exchange and which is made available by a payment service provider or comes from a publicly available source;

“SEPA” means the single European payments area;

“SEPA credit transfer” means a payment service for crediting a payee’s payment account with a payment transaction or a series of payment transactions from a payer’s payment account by the payment service provider which holds the payer’s payment account, based on an instruction given by the payer;

“SEPA direct debit” means a payment service for debiting a payer’s payment account, where a payment transaction is initiated by the payee on the basis of the payer’s consent given to the payee, to the payee’s payment service provider or to the payer’s own payment service provider;

“SEPA payment” means a payment transaction carried out within the SEP statutory area;

“SEP statutory area” means an area consisting of Jersey, Guernsey, the Isle of Man and the Member States of the European Economic Area;

“single payment service contract” has the same meaning as in the Payment Services Directive;

“unique identifier” means a combination of letters, numbers or symbols specified to a payment service user by a payment service provider and to

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be provided by the payment service user in relation to a payment transaction in order to identify unambiguously one or both of the following –

- (a) the other payment service user who is a party to the payment transaction;
- (b) the other payment service user's payment account;

“value date” means a reference time used by a payment service provider for the calculation of interest on the funds debited from or credited to a payment account.

- (2) For the purposes of these Regulations, all the places of business set up in Jersey by a payment service provider with a head office outside Jersey shall be taken to be one branch.

## **PART 2**

### **IMPLEMENTATION OF TITLE III OF PAYMENT SERVICES DIRECTIVE: INFORMATION REQUIREMENTS FOR PAYMENT SERVICES**

#### *Application*

#### **2 Application of Part 2**

- (1) This Part applies to a contract for payment services where –
  - (a) the services are provided from an establishment maintained by a payment service provider in Jersey; and
  - (b) the payment service providers of both the payer and the payee are located within the SEP statutory area.
- (2) Regulations 4 to 7 and 15 to 18 apply to payment services provided under a single payment service contract.
- (3) Regulations 3 and 8 to 18 apply to payment services provided under a framework contract.
- (4) Except where the payment service user is a consumer, the parties may agree that any or all of the provisions of this Part do not apply to a contract for payment services.
- (5) This Part does not apply to –
  - (a) a payment transaction from a payer to a payee through a commercial agent authorized to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee;
  - (b) a payment transaction carried out within a payment or securities settlement system between payment service providers and settlement agents, central counterparties, clearing houses, central banks or other participants in the system;
  - (c) a payment transaction relating to securities asset servicing, including dividends, income or other distributions, or redemption or sale,

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carried out by persons referred to in sub-paragraph (b) or by entities allowed to have the custody of financial instruments;

- (d) services, provided by technical service providers, which support the provision of payment services, without the providers' entering at any time into possession of the funds to be transferred, being services that include processing and storage of data, trust and privacy protection services, data and entity authentication, provision of information technology, provision of communication networks, and the provision and maintenance of terminals and devices used for payment services;
- (e) a payment transaction carried out between payment service providers or their branches, or between a payment service provider and one or more of its branches, for their own account; or
- (f) a payment transaction between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group.

### **3 Disapplication of certain Regulations in the case of low-value payment instruments**

- (1) This Regulation applies in respect of payment instruments which, under the framework contract governing their use –
  - (a) can be used only to execute individual payment transactions that do not exceed 30 euros or, in relation to payment transactions executed wholly within Jersey, 60 euros; or
  - (b) have a spending limit of 150 euros or, where payment transactions are to be executed wholly within Jersey, 300 euros.
- (2) Where this Regulation applies –
  - (a) Regulations 8 and 12 do not apply and the payment service provider is required to provide the payer only with information about the main characteristics of the payment service, including –
    - (i) the way in which the payment instrument can be used,
    - (ii) the liability of the payer, as set out in Regulation 29,
    - (iii) any charges levied,
    - (iv) any other material information the payer might need in order to take an informed decision, and
    - (v) an indication of where the information referred to in Schedule 1 is made available in an easily accessible manner;
  - (b) if the parties so agree, Regulations 13 and 14 do not apply and instead –
    - (i) the payment service provider shall provide or make available a reference enabling the payment service user to identify –
      - (A) the payment transaction,
      - (B) the amount of the payment transaction,

- (C) any charges payable in respect of the payment transaction; or
- (ii) in the case of several payment transactions of the same kind made to the same payee, the payment service provider shall provide or make available to the payment service user information about the total amount of the payment transactions and any charges for those payment transactions; and
- (c) if the parties so agree, Regulation 15(1) does not apply to information provided or made available in accordance with Regulation 10.

*Single payment service contracts*

**4 Information required prior to the conclusion of a single payment service contract**

- (1) A payment service provider shall provide or make available to the payment service user the information referred to in paragraph (2) by supplying a copy of the draft single payment service contract, supplying a copy of the draft payment order or otherwise, either –
  - (a) before the payment service user is bound by the single payment service contract; or
  - (b) immediately after the execution of the payment transaction, where the contract is concluded at the payment service user's request using a means of distance communication which does not enable provision of such information in accordance with sub-paragraph (a).
- (2) The information referred to in paragraph (1) is –
  - (a) the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;
  - (b) the maximum time in which the payment service will be executed;
  - (c) the charges payable by the payment service user to the user's payment service provider for the payment service and, where applicable, a breakdown of the amounts of such charges;
  - (d) where applicable, the actual or reference exchange rate to be applied to the payment transaction; and
  - (e) such of the information referred to in Schedule 1 as is relevant to the single payment service contract in question.

**5 Information required after receipt of the payment order**

- (1) The payer's payment service provider shall, immediately after receipt of the payment order, provide or make available to the payer the information referred to in paragraph (2).
- (2) The information referred to in paragraph (1) is –

- (a) a reference enabling the payer to identify the payment transaction and, where appropriate, information relating to the payee;
- (b) the amount of the payment transaction in the currency used in the payment order;
- (c) the amount of any charges for the payment transaction payable by the payer and, where applicable, a breakdown of the amounts of such charges;
- (d) where an exchange rate is used in the payment transaction and the actual rate used in the payment transaction differs from the rate referred to in Regulation 4(2)(d), the actual rate used or a reference to it, and the amount of the payment transaction after that currency conversion; and
- (e) the date on which the payment service provider received the payment order.

## **6 Information for the payee after execution**

- (1) The payee's payment service provider shall, immediately after the execution of the payment transaction, provide or make available to the payee the information referred to in paragraph (2).
- (2) The information referred to in paragraph (1) is –
  - (a) a reference enabling the payee to identify the payment transaction and, where appropriate, the payer and any information transferred with the payment transaction;
  - (b) the amount of the payment transaction in the currency in which the funds are at the payee's disposal;
  - (c) the amount of any charges for the payment transaction payable by the payee and, where applicable, a breakdown of the amount of such charges;
  - (d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion; and
  - (e) the credit value date.

## **7 Avoidance of duplication of information**

Where a payment order for a single payment transaction is transmitted by way of a payment instrument issued under a framework contract, the payment service provider in respect of that single payment transaction need not provide or make available under Regulations 4 to 6 information which has been provided or made available, or will be provided or made available, under Regulations 8 to 13 by another payment service provider in respect of the framework contract.

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*Framework contracts*

**8 Prior general information for framework contracts**

- (1) A payment service provider shall provide to the payment service user the information referred to in Schedule 1, either –
  - (a) in good time before the payment service user is bound by the framework contract; or
  - (b) where the contract is concluded at the payment service user's request using a means of distance communication which does not enable provision of such information in accordance with sub-paragraph (a), immediately after the conclusion of the contract.
- (2) The payment service provider may discharge the duty under paragraph (1) by supplying a copy of the draft framework contract provided that such contract includes the information referred to in Schedule 1.

**9 Information during period of contract**

If the payment service user so requests at any time during the contractual relationship, the payment service provider shall provide the information referred to in Schedule 1 and the terms of the framework contract.

**10 Changes in contractual information**

- (1) Subject to paragraph (4), notice of any proposed changes to –
  - (a) the existing terms of the framework contract; or
  - (b) the information referred to in Schedule 1,shall be provided by the payment service provider to the payment service user no later than 2 months before the date on which they are to take effect.
- (2) The framework contract may provide for any such proposed changes to be made unilaterally by the payment service provider where the payment service user does not, before the proposed date of entry into force of the changes, notify the payment service provider to the contrary.
- (3) Where the framework contract so provides, the payment service provider shall inform the payment service user that –
  - (a) the payment service user will be deemed to have accepted the changes in the circumstances referred to in paragraph (2); and
  - (b) the payment service user has the right to terminate the framework contract immediately and without charge before the proposed date of their entry into force.
- (4) Changes in the exchange rate used in payment transactions may be applied immediately and without notice where –
  - (a) such a right is agreed to under the framework contract and the changes are based on the reference exchange rates on which information has been provided to the payment service user in accordance with this Part; or

- (b) the changes are favourable to the payment service user.
- (5) Any change in the exchange rate used in payment transactions shall be implemented and calculated in a neutral manner that does not discriminate against any payment service user.

## **11 Termination of framework contract**

- (1) Subject to paragraph (2), the payment service user may terminate the framework contract at any time.
- (2) If the parties have agreed on a period of notice not exceeding 1 month, the payment service user may terminate the framework contract by giving at least that period of notice.
- (3) Subject to paragraph (4), any charges for the termination of the contract under paragraph (1) or (2) shall reasonably correspond to the actual costs to the payment service provider of the termination.
- (4) The payment service provider shall not charge the payment service user for the termination of the contract under paragraph (1) or (2), after the expiry of 12 months from the day on which the contract enters into force, if the contract has been concluded for a fixed period of more than 12 months or for an indefinite period.
- (5) If the contract so provides, the payment service provider may terminate a framework contract concluded for an indefinite period by giving at least 2 months' notice or the period of notice provided for in the contract, whichever period of notice is the greater.
- (6) Notice of termination given in accordance with paragraph (5) shall be provided in the same way as information is required by Regulation 15(1) to be provided or made available.
- (7) Where charges for the payment service are levied on a regular basis, such charges shall be apportioned up until the time of the termination of the contract and any charges paid in advance shall be reimbursed proportionally.
- (8) This Regulation does not affect any right of a party to the framework contract to treat it, in accordance with the general law of contract, as unenforceable, void or discharged.

## **12 Information prior to execution of individual payment transaction**

Where an individual payment transaction under a framework contract is initiated by the payer, the payer's payment service provider shall, on request by the payer, inform the payer of –

- (a) the maximum execution time;
- (b) the charges payable by the payer in respect of the payment transaction; and
- (c) where applicable, a breakdown of the amounts of such charges.



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**13 Information for the payer on individual payment transactions**

- (1) The payer's payment service provider under a framework contract shall provide to the payer the information referred to in paragraph (2) as soon as is reasonably practicable either –
  - (a) after the amount of an individual payment transaction is debited from the payer's payment account; or
  - (b) where the payer does not use a payment account, after receipt of the payment order.
- (2) The information referred to in paragraph (1) is –
  - (a) a reference enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee;
  - (b) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;
  - (c) the amount of any charges payable by the payer for the payment transaction and, where applicable, a breakdown of the amounts of such charges;
  - (d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider and the amount of the payment transaction after that currency conversion; and
  - (e) the debit value date or the date of receipt of the payment order.
- (3) A framework contract may include a condition that the information referred to in paragraph (2) be provided or made available periodically at least once a month and in an agreed manner which enables the payer to store and reproduce the information unchanged.

**14 Information for the payee on individual payment transactions**

- (1) As soon as is reasonably practicable after the execution of an individual payment transaction under a framework contract, the payee's payment service provider shall provide to the payee the information referred to in paragraph (2).
- (2) The information referred to in paragraph (1) is the following –
  - (a) a reference enabling the payee to identify the payment transaction and, where appropriate, the payer, and any information transferred with the payment transaction;
  - (b) the amount of the payment transaction in the currency in which the payee's payment account is credited;
  - (c) the amount of any charges payable by the payee for the payment transaction and, where applicable, a breakdown of the amounts of such charges;
  - (d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion;
  - (e) the credit value date.

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- (3) A framework contract may include a condition that the information referred to in paragraph (2) is to be provided or made available periodically at least once a month and in an agreed manner which enables the payee to store and reproduce the information unchanged.

*Common provisions*

**15 Communication of information**

- (1) Subject to Regulation 3(2)(c), any information provided or made available in accordance with this Part shall be provided or made available –
- (a) in the case of single payment service contracts, in an easily accessible manner;
  - (b) subject to paragraph (2), on paper or on another durable medium;
  - (c) in easily understandable language and in a clear and comprehensible form; and
  - (d) in English or in the language agreed by the parties.
- (2) Paragraph (1)(b) –
- (a) in the case of single payment service contracts, applies only where the payment service user so requests; and
  - (b) in the case of framework contracts, is subject to any agreement in accordance with Regulation 13(3) or 14(3) as to the manner in which information is to be provided or made available.

**16 Charges for information**

- (1) A payment service provider shall not charge for providing or making available information which is required to be provided or made available by this Part.
- (2) The payment service provider and the payment service user may agree on charges for any information which is provided at the request of the payment service user where such information is –
- (a) additional to the information required to be provided or made available by this Part;
  - (b) provided more frequently than is specified in this Part; or
  - (c) transmitted by means of communication other than those specified in the framework contract.
- (3) Any charges imposed under paragraph (2) shall reasonably correspond to the payment service provider's actual costs.

**17 Currency and currency conversion**

- (1) Where a currency conversion service is, before the initiation of a payment transaction, offered –
- (a) at the point of sale; or
  - (b) by the payee,

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the party offering the currency conversion service to the payer shall disclose to the payer all charges as well as the exchange rate to be used for converting the payment transaction.

- (2) A person who fails to comply with paragraph (1) shall be guilty of an offence and liable to a fine of level 4 on the standard scale.
- (3) In paragraph (2), the reference to a person does not include the person who, in relation to the payment transaction, is a payment service provider.

### **18 Information on additional charges or reductions**

- (1) The payee shall inform the payer of any charge requested or reduction offered by the payee for the use of a particular payment instrument before the initiation of a payment transaction.
- (2) A payee who fails to comply with paragraph (1) shall be guilty of an offence and liable to a fine of level 4 on the standard scale.
- (3) In paragraph (2), the reference to a payee shall not include the person who, in relation to the payment transaction, is a payment service provider.
- (4) The payment service provider, or any relevant third party, shall (before the initiation of a payment transaction) inform the payment service user of any charge requested by the payment service provider or third party, as the case may be, for the use of a particular payment instrument.
- (5) A person who (being such a third party) fails to comply with paragraph (4) shall be guilty of an offence and liable to a fine of level 4 on the standard scale.

## **PART 3**

### **IMPLEMENTATION OF TITLE IV OF PAYMENT SERVICES DIRECTIVE: RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION OF PAYMENT SERVICES**

#### *Application*

### **19 Application of Part 3**

- (1) This Part applies to a contract for payment services where –
  - (a) the services are provided from an establishment maintained by a payment service provider in Jersey; and
  - (b) the payment service providers of both the payer and the payee are located within the SEP statutory area.
- (2) Except where the payment service user is a consumer, the parties may agree that –
  - (a) any or all of Regulations 21(1), 22(3) or (4), 27, 29, 30, 31, 34, 40, 41 and 42 do not apply;
  - (b) a different period applies for the purposes of Regulation 26(1).

- (3) This Part does not apply to any payment transaction or service specified in Regulation 2(5).

## **20 Disapplication of certain Regulations in the case of low value payment instruments**

- (1) This Regulation applies in respect of payment instruments which, under the framework contract governing their use –
- (a) can be used only to execute individual payment transactions that do not exceed 30 euros or, in relation to payment transactions executed wholly within Jersey, 60 euros; or
  - (b) have a spending limit of 150 euros, or where payment transactions are to be executed wholly within Jersey, 300 euros.
- (2) Where this Regulation applies the parties may agree that –
- (a) Regulations 24(1)(b), 25(1)(c), (d) and (e) and 29(3) do not apply where the payment instrument does not allow for the stopping or prevention of its use;
  - (b) Regulations 27, 28 and 29(1) and (2) do not apply where the payment service provider is not in a position, for reasons intrinsic to the nature of the payment instrument, to prove that a payment transaction was authorized;
  - (c) the payment service provider is not required under Regulation 33(1) to notify the payment service user of the refusal of a payment order if the non-execution is apparent from the context;
  - (d) the payer may not revoke the payment order under Regulation 34 after transmitting the payment order or giving his or her consent to execute the payment transaction to the payee;
  - (e) execution periods other than those provided for by Regulations 36 and 37 apply.

### *Charges*

## **21 Charges**

- (1) The payment service provider may charge the payment service user for the fulfilment of any of its obligations under this Part only –
- (a) in accordance with Regulation 33(3), 34(6) or 39(2)(b);
  - (b) where agreed between the parties; and
  - (c) where such charges reasonably correspond to the payment service provider's actual costs.
- (2) Where a payment transaction does not involve any currency conversion, the respective payment service providers shall ensure that –
- (a) the payee pays any charges levied by the payee's payment service provider; and
  - (b) the payer pays any charges levied by the payer's payment service provider.

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- (3) The payee's payment service provider shall not prevent the payee from –
- (a) requiring payment of a charge by; or
  - (b) offering a reduction to,
- the payer for the use of a particular payment instrument.

*Authorization of payment transactions*

**22 Consent and withdrawal of consent**

- (1) A payment transaction shall be regarded as having been authorized by the payer for the purposes of this Part only if the payer has given its consent to –
- (a) the execution of the payment transaction; or
  - (b) the execution of a series of payment transactions of which that payment transaction forms part.
- (2) Such consent –
- (a) may be given before or, if agreed between the payer and its payment service provider, after the execution of the payment transaction; and
  - (b) shall be given in the form, and in accordance with the procedure, agreed between the payer and its payment service provider.
- (3) The payer may withdraw its consent to a payment transaction at any time before the point at which the payment order can no longer be revoked under Regulation 34.
- (4) Subject to Regulation 34(3) to (5), the payer may withdraw its consent to the execution of a series of payment transactions at any time with the effect that any future payment transactions are not regarded as authorized for the purposes of this Part.

**23 Limits on the use of payment instruments**

- (1) Where a specific payment instrument is used for the purpose of giving consent to the execution of a payment transaction, the payer and its payment service provider may agree on spending limits for any payment transactions executed through that payment instrument.
- (2) A framework contract may provide for the payment service provider to have the right to stop the use of a payment instrument on reasonable grounds relating to –
- (a) the security of the payment instrument;
  - (b) the suspected unauthorized or fraudulent use of the payment instrument; or
  - (c) in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil its liability to pay.
- (3) Subject to paragraphs (4) and (5), the payment service provider shall, in the manner agreed between the payment service provider and the payer and

before carrying out any measures to stop the use of the payment instrument –

- (a) inform the payer that it intends to stop the use of the payment instrument; and
  - (b) give its reasons for doing so.
- (4) Subject to paragraph (5), where the payment service provider is unable to inform the payer in accordance with paragraph (3) before carrying out any measures to stop the use of the payment instrument, it shall do so immediately after.
- (5) Paragraphs (3) and (4) do not apply where provision of the information in accordance with paragraph (3) would compromise reasonable security measures or is otherwise unlawful.
- (6) The payment service provider shall allow the use of the payment instrument or replace it with a new payment instrument as soon as practicable after the reasons for stopping its use cease to exist.

#### **24 Obligations of the payment service user in relation to payment instruments**

- (1) A payment service user to whom a payment instrument has been issued shall –
- (a) use the payment instrument in accordance with the terms and conditions governing its issue and use; and
  - (b) notify the payment service provider in the agreed manner and without undue delay on becoming aware of the loss, theft, misappropriation or unauthorized use of the payment instrument.
- (2) The payment service user shall on receiving a payment instrument take all reasonable steps to keep its personalized security features safe.

#### **25 Obligations of the payment service provider in relation to payment instruments**

- (1) A payment service provider issuing a payment instrument shall –
- (a) ensure that the personalized security features of the payment instrument are not accessible to persons other than the payment service user to whom the payment instrument has been issued;
  - (b) not send an unsolicited payment instrument, except where a payment instrument already issued to a payment service user is to be replaced;
  - (c) ensure that appropriate means are available at all times to enable the payment service user –
    - (i) to notify the payment service provider in accordance with Regulation 24(1)(b), or
    - (ii) to request that the use of the payment instrument no longer be stopped and that Regulation 23(6) apply;
  - (d) on request, provide the payment service user at any time during a period of 18 months after the alleged date of a notification under

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Regulation 24(1)(b) with the means to prove that such notification to the payment service provider was made;

- (e) prevent any use of the payment instrument once notification has been made under Regulation 24(1)(b).
- (2) The payment service provider bears the risk of sending a payment instrument or any of its personalized security features to the payment service user.
- (3) Nothing in paragraph (1)(a) affects the obligations of the payment service user under Regulation 24.

## **26 Notification of unauthorized or incorrectly executed payment transactions**

- (1) A payment service user is entitled to redress under Regulation 28, 40, 41 or 42 only if it notifies the payment service provider without undue delay, and in any event no later than 13 months after the debit date, on becoming aware of any unauthorized or incorrectly executed payment transaction.
- (2) Where the payment service provider has failed to provide or make available information concerning the payment transaction in accordance with Part 2, the payment service user is entitled to redress under the Regulations referred to in paragraph (1) notwithstanding that the payment service user has failed to notify the payment service provider as mentioned in that paragraph.

## **27 Evidence on authentication and execution of payment transactions**

- (1) Where a payment service user –
  - (a) denies having authorized an executed payment transaction; or
  - (b) claims that a payment transaction has not been correctly executed,it shall be for the payment service provider to prove that the payment transaction was authenticated, accurately recorded, entered in the payment service provider’s accounts and not affected by a technical breakdown or some other deficiency.
- (2) In paragraph (1) “authenticated” means the use of any procedure by which a payment service provider is able to verify the use of a specific payment instrument, including its personalized security features.
- (3) Where a payment service user denies having authorized an executed payment transaction, the use of a payment instrument recorded by the payment service provider shall not in itself necessarily be sufficient to prove that –
  - (a) the payment transaction was authorized by the payer; or
  - (b) the payer acted fraudulently or failed with intent or gross negligence to comply with Regulation 24.

**28 Payment service provider's liability for unauthorized payment transactions**

Subject to Regulations 26 and 27, where an executed payment transaction was not authorized in accordance with Regulation 22, the payment service provider shall immediately –

- (a) refund the amount of the unauthorized payment transaction to the payer; and
- (b) where applicable, restore the debited payment account to the state it would have been in had the unauthorized payment transaction not taken place.

**29 Payer's liability for unauthorized payment transaction**

(1) Subject to paragraphs (2) and (3), the payer shall be liable up to a maximum of £50 for any losses incurred in respect of unauthorized payment transactions arising –

- (a) from the use of a lost or stolen payment instrument; or
- (b) where the payer has failed to keep the personalized security features of the payment instrument safe, from the misappropriation of the payment instrument.

(2) The payer shall be liable for all losses incurred in respect of an unauthorized payment transaction where the payer –

- (a) has acted fraudulently; or
- (b) has with intent or gross negligence failed to comply with Regulation 24.

(3) Except where the payer has acted fraudulently, the payer shall not be liable for any losses incurred in respect of an unauthorized payment transaction –

- (a) arising after notification under Regulation 24(1)(b); or
- (b) where the payment service provider has failed at any time to provide, in accordance with Regulation 25(1)(c), appropriate means for notification.

**30 Refunds for payment transactions initiated by or through a payee**

(1) Where the conditions in paragraph (2) and the requirement in Regulation 31(1) are satisfied, the payer shall be entitled to a refund from its payment service provider of the full amount of any authorized payment transaction initiated by or through the payee.

(2) The conditions are that –

- (a) the authorization did not specify the exact amount of the payment transaction when the authorization was given in accordance with Regulation 22; and
- (b) the amount of the payment transaction exceeded the amount that the payer could reasonably have expected taking into account the payer's previous spending pattern, the conditions of the framework contract and the circumstances of the case.



- (3) The payer and payment service provider may agree in the framework contract, in respect of direct debits, that the conditions in paragraph (2) need not be satisfied in order for the payer to be entitled to a refund.
- (4) For the purposes of paragraph (2)(b), the payer cannot rely on currency exchange fluctuations where the reference exchange rate provided under Regulation 4(2)(d) or paragraph 3(b) of Schedule 1 was applied.
- (5) The payer and payment service provider may agree in the framework contract that the right to a refund does not apply where –
  - (a) the payer has given consent directly to the payment service provider for the payment transaction to be executed; and
  - (b) if applicable, information on the payment transaction was provided or made available in an agreed manner to the payer for at least 4 weeks before the due date by the payment service provider or by the payee.

### **31 Requests for refunds for payment transactions initiated by or through a payee**

- (1) The payer shall request a refund under Regulation 30 from its payment service provider within 8 weeks from the date on which the funds were debited.
- (2) The payment service provider may require the payer to provide such information as is reasonably necessary to ascertain whether the conditions in Regulation 30(2) are satisfied.
- (3) Subject to paragraph (4), the payment service provider shall either –
  - (a) refund the full amount of the payment transaction; or
  - (b) provide justification for refusing to refund the payment transaction, indicating the bodies to which the payer may refer the matter if the payer does not accept the justification provided.
- (4) Where an agreement in accordance with Regulation 30(3) applies, the payment service provider shall, notwithstanding that a condition in Regulation 30(2) is not satisfied, refund the full amount of the payment transaction.
- (5) Any refund or justification for refusing a refund shall be provided within 10 business days of receiving a request for a refund or, where applicable, within 10 business days of receiving any further information requested under paragraph (2).

#### *Execution of payment transactions*

### **32 Receipt of payment orders**

- (1) Subject to paragraphs (2) to (5), for the purposes of these Regulations the time of receipt of a payment order is the time at which the payment order, given directly by the payer or indirectly by or through a payee, is received by the payer's payment service provider.

- (2) If the time of receipt of a payment order does not fall on a business day for the payer's payment service provider, the payment order shall be taken to have been received on the first business day thereafter.
- (3) The payment service provider may set a time towards the end of a business day after which any payment order received shall be taken to have been received on the following business day.
- (4) Where the payment service user initiating a payment order agrees with its payment service provider that execution of the payment order is to take place –
  - (a) on a specific day;
  - (b) on the last day of a certain period; or
  - (c) on the day on which the payer has put funds at the disposal of its payment service provider,the time of receipt shall be taken to be the day so agreed.
- (5) If the day agreed under paragraph (4) is not a business day for the payer's payment service provider, the payment order shall be taken to have been received on the first business day thereafter.

### **33 Refusal of payment orders**

- (1) Subject to paragraph (4), where a payment service provider refuses to execute a payment order, it shall notify the payment service user of –
  - (a) the refusal;
  - (b) if possible, the reasons for such refusal; and
  - (c) where it is possible to provide reasons for the refusal and those reasons relate to factual matters, the procedure for rectifying any factual errors that led to the refusal.
- (2) Any notification under paragraph (1) shall be given or made available in an agreed manner and at the earliest opportunity, and in any event within the periods specified in Regulation 36.
- (3) The framework contract may provide for the payment service provider to charge the payment service user for such notification where the refusal is reasonably justified.
- (4) The payment service provider is not required to notify the payment service user under paragraph (1) where such notification would be otherwise unlawful.
- (5) Where all the conditions set out in the payer's framework contract have been satisfied, the payment service provider shall not refuse to execute an authorized payment order irrespective of whether the payment order is initiated by the payer or by or through a payee, unless such execution is otherwise unlawful.
- (6) For the purposes of Regulations 36, 40 and 41 a payment order of which execution has been refused shall be taken not to have been received.

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**34 Revocation of a payment order**

- (1) Subject to paragraphs (2) to (5), a payment service user shall not revoke a payment order after it has been received by the payer's payment service provider.
- (2) In the case of a payment transaction initiated by or through the payee, the payer shall not revoke the payment order after transmitting the payment order or giving consent to execute the payment transaction to the payee.
- (3) In the case of a direct debit, the payer shall not revoke the payment order after the end of the business day preceding the day agreed for debiting the funds.
- (4) Where a day is agreed under Regulation 32(4), the payment service user shall not revoke a payment order after the end of the business day preceding the agreed day.
- (5) At any time after the time limits for revocation set out in paragraphs (1) to (4), the payment order may be revoked only if the revocation is –
  - (a) agreed between the payment service user and its payment service provider; and
  - (b) in the case of a payment transaction initiated by or through the payee, including in the case of a direct debit, also agreed with the payee.
- (6) A framework contract may provide for the payment service provider to charge for revocation under this Regulation.

**35 Amounts transferred and amounts received**

- (1) Subject to paragraph (2), the payment service providers of the payer and payee shall ensure that the full amount of the payment transaction is transferred and that no charges are deducted from the amount transferred.
- (2) The payee and its payment service provider may agree that the payment service provider deduct its charges from the amount transferred before crediting it to the payee provided that the full amount of the payment transaction and the amount of the charges are clearly stated in the information provided to the payee.
- (3) If charges other than those provided for by paragraph (2) are deducted from the amount transferred –
  - (a) in the case of a payment transaction initiated by the payer, the payer's payment service provider shall ensure that the payee nevertheless receives the full amount of the payment transaction;
  - (b) in the case of a payment transaction initiated by the payee, the payee's payment service provider shall ensure that the payee nevertheless receives the full amount of the payment transaction.

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*Execution time and value date***36 Payment transactions to a payment account**

- (1) Subject to paragraphs (2) and (3), the payer's payment service provider shall ensure that the amount of the payment transaction is credited to the payee's payment service provider's account by the end of the business day following the time of receipt of the payment order.
- (2) Where a payment transaction is initiated by way of a paper payment order, the reference in paragraph (1) to the end of the business day following the time of receipt of the payment order shall be treated as a reference to the end of the second business day following the time of receipt of the payment order.
- (3) The payee's payment service provider shall value-date and credit the amount of the payment transaction to the payee's payment account following its receipt of the funds.
- (4) The payee's payment service provider shall transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed between the payee and its payment service provider, enabling settlement in respect of a direct debit to occur on the agreed due date.

**37 Absence of payee's payment account with the payment service provider**

- (1) Paragraph (2) applies where a payment service provider accepts funds on behalf of a payee who does not have a payment account with that payment service provider.
- (2) The payment service provider shall make the funds available to the payee immediately after the funds have been credited to that payment service provider's account.

**38 Value date and availability of funds**

- (1) The credit value date for the payee's payment account shall be no later than the business day on which the amount of the payment transaction is credited to the account of the payee's payment service provider.
- (2) The payee's payment service provider shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount has been credited to that payment service provider's account.
- (3) The debit value date for the payer's payment account shall be no earlier than the time at which the amount of the payment transaction is debited to that payment account.

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*Liability*

**39 Incorrect unique identifiers**

- (1) Where a payment order is executed in accordance with the unique identifier, the payment order shall be taken to have been correctly executed by each payment service provider involved in executing the payment order with respect to the payee specified by the unique identifier.
- (2) Where the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable under Regulation 40 or 41 for non-execution or defective execution of the payment transaction, but the payment service provider –
  - (a) shall make reasonable efforts to recover the funds involved in the payment transaction; and
  - (b) may, if agreed in the framework contract, charge the payment service user for any such recovery.
- (3) Where the payment service user provides information additional to that referred to in Regulation 4(2)(a) or paragraph 2(b) of Schedule 1, the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.

**40 Non-execution or defective execution of payment transactions initiated by the payer**

- (1) This Regulation applies where a payment order is initiated by the payer.
- (2) The payer's payment service provider shall be liable to the payer for the correct execution of the payment transaction unless it can prove to the payer and, where relevant, to the payee's payment service provider, that the payee's payment service provider received the amount of the payment transaction in accordance with Regulation 36.
- (3) The payer's payment service provider shall, on request, make immediate efforts to trace the payment transaction and notify the payer of the outcome.
- (4) Where the payer's payment service provider is liable under paragraph (2), it shall without undue delay refund to the payer the amount of the non-executed or defective payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.
- (5) Where the payer's payment service provider can prove (as referred to in paragraph (2)) that the payee's payment service provider received the amount of the payment transaction in accordance with Regulation 36, the payee's payment service provider shall be liable to the payee for the correct execution of the payment transaction and shall –
  - (a) immediately make available the amount of the payment transaction to the payee; and

- (b) where applicable, credit the corresponding amount to the payee's payment account.

#### **41 Non-execution or defective execution of payment transactions initiated by the payee**

- (1) This Regulation applies where a payment order is initiated by the payee.
- (2) The payee's payment service provider shall be liable to the payee for the correct transmission of the payment order to the payer's payment service provider in accordance with Regulation 36(4).
- (3) Where the payee's payment service provider is liable under paragraph (2), it shall immediately re-transmit the payment order in question to the payer's payment service provider.
- (4) The payee's payment service provider shall, on request, make immediate efforts to trace the payment transaction and notify the payee of the outcome.
- (5) Where the payee's payment service provider can prove to the payee and, where relevant, to the payer's payment service provider, that it is not liable under paragraph (2) in respect of a non-executed or defectively executed payment transaction, the payer's payment service provider shall be liable to the payer and shall, as appropriate and without undue delay –
  - (a) refund to the payer the amount of the payment transaction; and
  - (b) restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.

#### **42 Liability of payment service provider for charges and interest**

A payment service provider shall be liable to its payment service user for –

- (a) any charges for which the payment service user is responsible; and
- (b) any interest which the payment service user must pay,

as a consequence of the non-execution or defective execution of the payment transaction.

#### **43 Right of recourse**

Where the liability of a payment service provider under Regulation 40 or 41 is attributable to another payment service provider or an intermediary, the other payment service provider or intermediary shall compensate the first-mentioned provider for any losses incurred or sums paid pursuant to that Regulation.

#### **44 Force majeure**

- (1) A person shall not be liable for any contravention of a requirement imposed on it under this Part where the contravention is due to abnormal and unforeseeable circumstances beyond the person's control, the consequences of which would have been unavoidable despite all efforts to the contrary.

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- (2) A payment service provider shall not be liable for any contravention of a requirement imposed on it under this Part where the contravention is due to the obligations of the payment service provider under other provisions of Jersey law.

## **PART 4**

### **IMPLEMENTATION OF ARTICLE 5 OF REGULATION (EU) NO 260/2012**

#### **45 Interpretation of Part 4**

In this Part –

“collection” means a part of a SEPA direct debit transaction starting from its initiation by the payee until its end through the normal debiting of the payer’s payment account;

“ISO 20022 XML standard” means a standard for the development of electronic financial messages as defined by the International Organization for Standardization, encompassing the physical representation of the payment transactions in XML syntax, in accordance with business rules and implementation guidelines for schemes for payment transactions falling within the scope of this Part;

“large-value payment system” means a payment system the main purpose of which is to process, clear or settle single payment transactions of high priority and urgency, and primarily of large amounts;

“mandate” means the expression of consent and authorization given by the payer to the payee and (directly, or indirectly via the payee) to the payer’s payment service provider to allow the payee to initiate a collection for debiting the payer’s specified payment account and to allow the payer’s payment service provider to comply with such instructions;

“microenterprise” means a microenterprise within the meaning of Commission Recommendation 2003/361/EC;

“reference party” means a natural or legal person on behalf of whom a payer makes a payment or a payee receives a payment;

“retail payment system” means a payment system that is not a large-value payment system and the main purpose of which is to process, clear or settle SEPA credit transfers, or SEPA direct debits, that are generally bundled together for transmission and are primarily of small amount and low priority;

“settlement date” means a date on which obligations with respect to the transfer of funds are discharged between the payer’s payment service provider and the payee’s payment service provider.

#### **46 Object of Part 4**

The object of this Part is to make provision for the implementation of Article 5 of Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit

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transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

#### **47 Application of Part 4**

- (1) This Part applies to SEPA credit transfer transactions and SEPA direct debit transactions where both the payer's payment service provider and the payee's payment service provider are located in the SEP statutory area, or where the sole payment service provider involved in the transaction is located in the SEP statutory area.
- (2) This Part does not apply to the following –
  - (a) a payment transaction carried out between payment service providers or their branches, or between a payment service provider and one or more of its branches, for their own account;
  - (b) a payment transaction processed and settled through a large-value payment system, other than a SEPA direct debit which the payer has not explicitly requested be routed via a large-value payment system;
  - (c) a payment transaction through a payment card or similar device, including a cash withdrawal, unless the card or device is used only to generate the information required to make directly a SEPA credit transfer to, or a SEPA direct debit from, a payment account identified by BBAN or IBAN;
  - (d) a payment transaction by means of any telecommunication device, digital device or information technology device, unless the payment transaction results in a SEPA credit transfer to, or a SEPA direct debit from, a payment account identified by BBAN or IBAN;
  - (e) a transaction of money remittance as defined in point (13) of Article 4 of the Payments Services Directive;
  - (f) a payment transaction transferring electronic money, unless the transaction results in a SEPA credit transfer to, or a SEPA direct debit from, a payment account identified by BBAN or IBAN.
- (3) Where payment schemes are based on payment transactions by SEPA credit transfers or SEPA direct debits but have additional optional features or services, this Part applies only to the underlying SEPA credit transfers or SEPA direct debits.

#### **48 Requirements for credit transfer and direct debit transactions**

- (1) Payment service providers shall carry out SEPA credit transfer transactions and SEPA direct debit transactions in accordance with the following requirements –
  - (a) they shall use the payment account identifier specified in paragraph 1(a) of Schedule 2 for the identification of payment accounts regardless of the location of the payment service providers concerned;
  - (b) they shall use a message format specified in paragraph 1(b) of Schedule 2 when transmitting payment transactions to another payment service provider or via a retail payment system;



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- (c) they shall ensure that payment service users use the payment account identifier specified in paragraph 1(a) of Schedule 2 for the identification of payment accounts, whether the payer's payment service provider and the payee's payment service provider in the payment transaction are, or the sole payment service provider in the payment transaction is, located in the same country or territory in the SEP statutory area or in different countries, in different territories, or in a country and a territory;
    - (d) they shall ensure that where a payment service user that is not a consumer or a microenterprise initiates or receives individual credit transfers or individual direct debits which are not transmitted individually, but are bundled together for transmission, a message format specified in paragraph 1(b) of Schedule 2 is used.
  - (2) Without prejudice to paragraph (1)(b), a payment service provider shall, on the specific request of a payment service user, use a message format specified in paragraph 1(b) of Schedule 2 in relation to that payment service user.
  - (3) In relation to a SEPA credit transfer –
    - (a) the payer's payment service provider shall ensure that the payer provides the data elements specified in paragraph 2(a) of Schedule 2;
    - (b) the payer's payment service provider shall provide the data elements specified in paragraph 2(b) of Schedule 2 to the payee's payment service provider; and
    - (c) the payee's payment service provider shall provide or make available to the payee the data elements specified in paragraph 2(d) of Schedule 2.
  - (4) In relation to a SEPA direct debit –
    - (a) the payee's payment service provider shall ensure that –
      - (i) the payee provides the data elements specified in paragraph 3(a) of Schedule 2 with the first SEPA direct debit (or one-off SEPA direct debit) and with each of any subsequent SEPA direct debit,
      - (ii) the payer gives consent both to the payee and to the payer's payment service provider (directly, or indirectly via the payee),
      - (iii) the mandates, together with any later modifications or any later cancellation, are stored by the payee or a third party on behalf of the payee,
      - (iv) the payee is informed of the obligation under clause (iii) by the payment service provider in accordance with Regulation 8;
    - (b) the payee's payment service provider shall provide the payer's payment service provider with the data elements specified in paragraph 3(b) of Schedule 2;
    - (c) the payer's payment service provider shall provide or make available to the payer the data elements specified in paragraph 3(c) of Schedule 2;

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- (d) the payer shall have the right to instruct its payment service provider to do any one or more of the following –
- (i) to limit a SEPA direct debit collection to a certain amount or to a certain periodicity or both,
  - (ii) where a mandate under a payment scheme does not provide for the right to a refund, to verify each SEPA direct debit transaction, and to check, according to the mandate-related information, whether the amount and periodicity of the submitted SEPA direct debit transaction is equal to the amount and periodicity agreed in the mandate, before debiting the payer’s payment account,
  - (iii) to block any SEPA direct debits to the payer’s payment account or to block any SEPA direct debits initiated by one or more specified payees or to authorize SEPA direct debits only if initiated by one or more specified payees.
- (5) However, if neither the payer nor the payee is a consumer, payment service providers are not required to comply with paragraph (4)(d).
- (6) The payer’s payment service provider shall inform the payer of the rights specified in paragraph (4)(d) in accordance with Regulation 8.
- (7) On the occasion of the first SEPA direct debit transaction or of a one-off SEPA direct debit transaction, and on the occasion of each of any subsequent SEPA direct debit transactions, the payee shall send the mandate-related information to his or her payment service provider and the payee’s payment service provider shall transmit that mandate-related information to the payer’s payment service provider with each SEPA direct debit transaction.
- (8) In addition to the requirements referred to in paragraph (1), a payee who accepts a SEPA credit transfer –
- (a) shall communicate to the payer his or her payment account identifier (as referred to in paragraph 1(a) of Schedule 2); and
  - (b) if necessary, shall communicate, if the acceptance occurs before 31 October 2016, his or her payment service provider’s BIC to the payer when a credit transfer is requested.
- (9) Before the first direct debit transaction a payer –
- (a) shall communicate to the payee his or her payment account identifier (as referred to in paragraph 1(a) of Schedule 2); and
  - (b) if necessary, shall communicate, if the transaction occurs before 31 October 2016, his or her payment service provider’s BIC to the payee.
- (10) Where the framework agreement between the payer and the payer’s payment service provider does not provide for the right to a refund, the payer’s payment service provider shall, without prejudice to paragraph (4)(a)(ii), verify each direct debit transaction to check whether, according to the mandate-related information, the amount of the submitted direct debit transaction is equal to the amount and periodicity agreed in the mandate before debiting the payer’s payment account.

- (11) On and from 31 October 2016, payment service providers shall not require payment service users to indicate the BIC of the payment service provider of a payer or of the payment service provider of a payee.
- (12) The payer's payment service provider and the payee's payment service provider shall not levy additional charges or other fees on the read-out process to automatically generate a mandate for those payment transactions that are initiated through or by means of a payment card at the point of sale and result in a direct debit.
- (13) Nothing in this Regulation affects the operation of the Data Protection (Jersey) Law 2005<sup>5</sup>.

#### **49 Transitional provisions**

- (1) Until 31 October 2016, a payment service provider may provide a payment service user with conversion services for national SEPA payments enabling a payment service user that is a consumer to continue using a BBAN instead of the payment account identifier specified in paragraph 1(a) of Schedule 2, on condition that interoperability is ensured by converting the payer's and the payee's BBAN technically and securely into the respective payment account identifier specified in paragraph 1(a) of Schedule 2.
- (2) That payment account identifier shall be delivered to the initiating payment service user, where appropriate, before the payment is executed.
- (3) In such a case a payment service provider shall not levy any charges or other fees on the payment service user directly or indirectly linked to those conversion services.
- (4) The Minister may by Order waive all or some of the following requirements –
  - (a) in the case of credit transfers, the technical requirements set out in Regulation 48(1), (2), (3) and (8) and paragraphs 1 and 2 of Schedule 2;
  - (b) in the case of direct debits, the requirements set out in Regulation 48(1), (2), (4), (5), (6), (7), (9), (10) and (12) and paragraphs 1 and 3 of Schedule 2,for those payment transactions generated using a payment card at the point of sale which result in a SEPA direct debit to and from a payment account identified by BBAN or IBAN before 31 October 2016.
- (5) Until 31 October 2016, the Minister may by Order, waive the specific requirement under Regulation 48(1)(d) to use the message formats specified in paragraph 1(b) of Schedule 2 for payment service users that initiate or receive individual credit transfers or direct debits that are bundled together for transmission.
- (6) Despite any such waiver, a payment service provider shall comply with Regulation 48(1)(d) if a payment service user requests that the provider comply with that sub-paragraph.

- (7) The Minister may by Order defer the requirements relating to the provision of a BIC for national SEPA payments in Regulation 48(8), (9) and (11) until 31 October 2016.

## **PART 5**

### **MISCELLANEOUS**

#### **50 Supervision**

The Commission shall –

- (a) effectively monitor payment service providers; and
- (b) take the necessary measures for the purpose of securing the compliance by payment service providers with the requirements of these Regulations.

#### **51 Monitoring and enforcement powers of Commission**

- (1) The Commission, an officer or an agent may serve a notice in writing on –
  - (a) a person who is or was a payment service provider;
  - (b) a person who, in relation to a payment service provider, is or was a principal person or key person;
  - (c) a person who is or was an associate of such a principal person; or
  - (d) a person who appears to the Commission to be in possession of information or documents of the kind mentioned in paragraph (2).
- (2) A notice under paragraph (1) may require the person on whom it is served to, at the place and time specified in the notice –
  - (a) to provide the Commission, an officer or an agent, at such times and places as are specified in the notice, with such information or documents as are specified in the notice and as the Commission, an officer or an agent reasonably requires the person to provide for the purpose of effectively monitoring or ensuring compliance with the requirements of these Regulations; or
  - (b) to attend at such times and places as may be specified in the notice and answer such questions as the Commission, an officer or an agent reasonably requires the person to answer for the purpose of effectively monitoring or ensuring compliance with the requirements of these Regulations.
- (3) The Commission may appoint one or more competent persons to investigate and report to the Commission as to whether a payment service provider has complied with these Regulations.
- (4) Article 32(4) to (6) and (8) to (13) of the Financial Services (Jersey) Law 1998<sup>6</sup>, as modified by paragraph (7), shall apply to a notice under paragraphs (1) and (2) of this Regulation as if it were a notice under paragraph (1) of that Article.

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- (5) Article 33(2) to (12) of the Financial Services (Jersey) Law 1998, as modified by paragraph (7), shall apply to an appointment under paragraph (3) as if it were an appointment under Article 33(1) of that Law.
- (5A) Article 6 of the Financial Services (Jersey) Law 1998 shall apply to a person appointed under paragraph (3) in relation to anything the person does, or omits to do, in the discharge or purported discharge of any function under that Law as applied by this Regulation.
- (6) The following provisions of the Financial Services (Jersey) Law 1998, as modified by paragraph (7), shall also apply for the purposes of these Regulations –
- (a) Article 18 (except the reference in paragraph (1)(b) to a report under Article 8(5));
  - (b) Article 23;
  - (c) Article 24 (except –
    - (i) paragraph (1)(a), (b), and (e), and
    - (ii) paragraph (1)(c) to the extent that paragraph (1)(c) refers to a contravention otherwise than of a provision of Article 28(1), (3) or (4));
  - (d) Article 25 (except –
    - (i) the reference in paragraph (a) to a direction under Article 16,
    - (ii) paragraph (b), and
    - (iii) the reference in paragraph (c) to –
      - (A) Article 24(1)(a), (b), and (e), and
      - (B) Article 24(1)(c) to the extent that Article 24(1)(c) refers to a contravention otherwise than of a provision of Article 28(1), (3) or (4);
  - (e) Articles 25A, 25B and 25C;
  - (f) Article 26 (except –
    - (i) paragraphs (1)(a)(i) and (ii) and (2),
    - (ii) the reference in paragraph (1)(a)(iii) to –
      - (A) Article 24(1)(a), (b), and (e), and
      - (B) Article 24(1)(c) to the extent that Article 24(1)(c) refers to a contravention otherwise than of a provision of Article 28(1), (3) or (4); and
    - (iii) the reference in paragraph (3) to paragraph (2));
  - (g) Article 28 (except paragraph (2));
  - (h) Article 34 (except –
    - (i) paragraph (1)(a), and
    - (ii) the reference in paragraph (1)(f) to a notice served otherwise than under Article 23(1));
  - (i) Article 35;
  - (j) Article 36 (except paragraphs (1)(a), (b) and (c), (6)(a) and (7));
  - (k) Articles 37 to 39;

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- (l) Articles 40 and 41.
- (7) In the provisions of the Financial Services (Jersey) Law 1998 applied by paragraphs (4) to (6) –
- (a) a reference to a registered person shall be construed as a reference to a payment service provider;
  - (b) a reference to financial service business means financial service business conducted in carrying out any payment service;
  - (c) a reference to a notice under Article 32(1), to questions put under Article 32(1)(b) or to information or documents required under that Article shall be construed, respectively, as a reference to a notice, to questions put, or to information or documents required, by notice under paragraph (1) of this Regulation;
  - (d) a reference to an appointment, or person appointed, under Article 33(1) or to an investigation under that Article shall be construed respectively as a reference to an appointment or person appointed, or to an investigation, under paragraph (3) of this Regulation;
  - (e) a reference to information and requirements under the Law shall be construed as a reference to information and requirements under these Regulations;
  - (f) a reference to the functions of the Commission under the Law shall be construed as a reference to the functions of the Commission under these Regulations;
  - (g) a reference to an offence under the Law shall be construed as a reference to an offence under the provisions of the Law as they are applied by this Regulation and shall include a reference to an offence under these Regulations.
- (8) Where a provision of the Financial Services (Jersey) Law 1998 is applied by this Regulation, a reference in any other enactment (including in that Law) to the provision shall be taken to include a reference to that provision as so applied.
- (9) In this Regulation “associate of a principal person”, “key person”, and “principal person”, in relation to a payment service provider have the same meanings as they have in the Financial Services (Jersey) Law 1998 in relation to a registered person.

## **52 Orders amending these Regulations**

The Minister may, for the purpose of ensuring that these Regulations are in harmony with EU instruments (including the purpose of extending the operation of these Regulations to further payment services or further payment transactions), by Order amend –

- (a) any reference in these Regulations to an EU instrument;
- (b) Regulation 1; or
- (c) Schedule 1 or 2.

**53 Citation and commencement**

- (1) These Regulations may be cited as the EU Legislation (Payment Services – SEPA) (Jersey) Regulations 201-.
- (2) These Regulations shall come into force 7 days after they are made.

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**SCHEDULE 1**

(Regulations 3, 4, 8, 9, 10, 30 and 39)

**PRIOR GENERAL INFORMATION FOR FRAMEWORK CONTRACTS****1 Payment service provider**

The following information about the payment service provider –

- (a) the name of the payment service provider;
- (b) the address and contact details of the payment service provider's head office;
- (c) if different from the information under sub-paragraph (b), the address and contact details of the branch from which the payment service is being provided;
- (d) details of the payment service provider's regulator (that is, the Commission), and any reference, or registration number, allocated by that regulator to the payment service provider.

**2 Payment service**

The following information about the payment service –

- (a) a description of the main characteristics of the payment service to be provided;
- (b) the information or unique identifier that must be provided by the payment service user in order for a payment order to be properly executed;
- (c) the form and procedure for giving consent to the execution of a payment transaction and for the withdrawal of consent in accordance with Regulation 22;
- (d) a reference to the time of receipt of a payment order, as defined in Regulation 32, and the cut-off time, if any, established by the payment service provider;
- (e) the maximum execution time for the payment services to be provided;
- (f) whether spending limits for the use of a payment instrument may be agreed in accordance with Regulation 23(1).

**3 Charges and exchange rates**

The following information about charges and exchange rates –

- (a) details of all charges payable by the payment service user to the payment service provider for the provision of payment services and, where applicable, a breakdown of the amounts of any charges;
- (b) where relevant, details of the exchange rates to be applied or, if reference exchange rates are to be used, the relevant date and index or base for determining such reference exchange rates;



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- (c) if agreed, the immediate application of changes in reference exchange rates and information requirements relating to the changes in accordance with Regulation 10(4).

#### **4 Communication**

The following information about communication –

- (a) the means of communication agreed between the parties for the transmission of information or notifications under these Regulations including, where relevant, any technical requirements for the payment service user's equipment for receipt of the information or notifications;
- (b) the manner in which and frequency with which information under these Regulations is to be provided or made available;
- (c) the language or languages in which the framework contract will be concluded and in which any information or notifications under these Regulations will be communicated;
- (d) the payment service user's right to receive the terms of the framework contract and information in accordance with Regulation 9.

#### **5 Safeguards and corrective measures**

The following information about safeguards and corrective measures –

- (a) where relevant, a description of the steps that the payment service user is to take in order to keep safe a payment instrument and how to notify the payment service provider for the purposes of Regulation 24(1)(b);
- (b) where relevant, the conditions under which the payment service provider proposes to reserve the right to stop or prevent the use of a payment instrument in accordance with Regulation 23;
- (c) the payer's liability under Regulation 29, including details of any limits on such liability;
- (d) how and within what period of time the payment service user is to notify the payment service provider of any unauthorized or incorrectly executed payment transaction under Regulation 26, and the payment service provider's liability for unauthorized payment transactions under Regulation 28;
- (e) the payment service provider's liability for the execution of payment transactions under Regulation 40 or 41;
- (f) the conditions for the payment of any refund under Regulation 30.

#### **6 Changes to and termination of the framework contract**

The following information about changes to and termination of the framework contract –

- (a) where relevant, the proposed terms under which the payment service user will be deemed to have accepted changes to the framework contract in accordance with Regulation 10(2), unless the user notifies the payment

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service provider, before the proposed date of their entry into force, that the user does not accept such changes;

- (b) the duration of the framework contract;
- (c) the right of the payment service user to terminate the framework contract in accordance with Regulation 11, and any agreements relating to termination.

## **7 Redress**

The following information about redress –

- (a) any contractual clause on –
  - (i) the law applicable to the framework contract, or
  - (ii) the competent courts;
- (b) the availability of out-of-court complaint and redress procedures for the payment service user and the methods for having access to them.

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**SCHEDULE 2**

(Regulations 48 and 49)

**TECHNICAL REQUIREMENTS**

**1 Credit transfer transactions and direct debit transactions: common requirements**

In addition to the essential requirements set out in Regulation 48, the following technical requirements shall apply to credit transfer transactions and direct debit transactions –

- (a) the payment account identifier referred to in Regulation 48(1)(a) and (c) is an IBAN;
- (b) the standard for message format referred to in Regulation 48(1)(b) and (d) is the ISO 20022 XML standard;
- (c) the remittance data field shall allow for 140 characters (except that payment schemes may allow for a higher number of characters unless the device used to remit information has technical limitations relating to the number of characters, in which case the technical limit of the device applies);
- (d) remittance reference information and all the other data elements provided in accordance with paragraphs 2 and 3 shall be passed in full and without alteration between payment service providers in the payment chain;
- (e) once the required data is available in electronic form payment transactions shall allow for fully automated, electronic processing in all process stages throughout the payment chain (end-to-end straight-through processing), enabling the entire payment process to be conducted electronically without the need for re-keying or manual intervention;
- (f) the processing required under sub-paragraph (e) shall also apply to exceptional handling of credit transfers and direct debit transactions, whenever possible;
- (g) payment schemes shall not set a minimum threshold for the amount of the payment transaction allowing for credit transfers or direct debits but are not required to process payment transactions with a zero amount;
- (h) payment schemes are not obliged to carry out credit transfers or direct debits exceeding the amount of 999,999,999.99 euros.

**2 Credit transfer transactions: particular requirements**

In addition to the requirements referred to in paragraph 1, the following requirements shall apply to credit transfer transactions –

- (a) the data elements referred to in Regulation 48(3)(a) are the following –
  - (i) either or both the payer's name and the IBAN of the payer's payment account,
  - (ii) the amount of the credit transfer,
  - (iii) the IBAN of the payee's payment account,

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- (iv) where available, the payee's name,
  - (v) the remittance information (if any);
  - (b) the data elements referred to in Regulation 48(3)(b) are the following –
    - (i) the payer's name,
    - (ii) the IBAN of the payer's payment account,
    - (iii) the amount of the credit transfer,
    - (iv) the IBAN of the payee's payment account,
    - (v) the remittance information (if any),
    - (vi) any payee identification code,
    - (vii) the name of any payee reference party,
    - (viii) the purpose of the credit transfer (if any),
    - (ix) the category (if any) of the purpose of the credit transfer;
  - (c) in addition, the following mandatory data elements are to be provided by the payer's payment service provider to the payee's payment service provider –
    - (i) the BIC of the payer's payment service provider (if not agreed otherwise by the payment service providers involved in the payment transaction),
    - (ii) the BIC of the payee's payment service provider (if not agreed otherwise by the payment service providers involved in the payment transaction),
    - (iii) the identification code of the payment scheme,
    - (iv) the settlement date of the credit transfer,
    - (v) the reference number of the credit transfer message of the payer's payment service provider;
  - (d) the data elements referred to in Regulation 48(3)(c) are the following –
    - (i) the payer's name,
    - (ii) the amount of the credit transfer,
    - (iii) the remittance information (if any).

### 3 Direct debit transactions: particular requirements

In addition to the requirements referred to in paragraph 1, the following requirements shall apply to direct debit transactions –

- (a) the data elements referred to in Regulation 48(4)(a)(i) are the following –
  - (i) the type of direct debit (recurrent, one-off, first, last or reversal),
  - (ii) the payee's name,
  - (iii) the IBAN of the payee's payment account to be credited for the collection,
  - (iv) where available, the payer's name,
  - (v) the IBAN of the payer's payment account to be debited for the collection,

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- (vi) the unique mandate reference,
  - (vii) where the payer's mandate is given after the commencement day, the date on which it was signed,
  - (viii) the amount of the collection,
  - (ix) where the mandate has been taken over by a payee other than the payee who issued the mandate, the unique mandate reference as given by the original payee who issued the mandate,
  - (x) the payee's identifier,
  - (xi) where the mandate has been taken over by a payee other than the payee who issued the mandate, the identifier of the original payee who issued the mandate,
  - (xii) the remittance information (if any) from the payee to the payer,
  - (xiii) the purpose (if any) of the collection,
  - (xiv) the category (if any) of the purpose of the collection;
- (b) the data elements referred to in Regulation 48(4)(b) are the following –
- (i) the BIC of the payee's payment service provider (if not agreed otherwise by the payment service providers involved in the payment transaction),
  - (ii) the BIC of the payer's payment service provider (if not agreed otherwise by the payment service providers involved in the payment transaction),
  - (iii) the payer reference party's name (if present in the dematerialised mandate),
  - (iv) the payer reference party's identification code (if present in the dematerialised mandate),
  - (v) the payee reference party's name (if present in the dematerialised mandate),
  - (vi) the payee reference party's identification code (if present in the dematerialised mandate),
  - (vii) the identification code of the payment scheme,
  - (viii) the settlement date of the collection,
  - (ix) the payee's payment service provider's reference for the collection,
  - (x) the type of mandate,
  - (xi) the type of direct debit (recurrent, one-off, first, last or reversal),
  - (xii) the payee's name,
  - (xiii) the IBAN of the payee's payment account to be credited for the collection,
  - (xiv) where available, the payer's name,
  - (xv) the IBAN of the payer's payment account to be debited for the collection,
  - (xvi) the unique mandate reference,
  - (xvii) the date of signing of the mandate if the mandate is given by the payer after the commencement day,
  - (xviii) the amount of the collection,

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- (xix) the unique mandate reference as given by the original payee who issued the mandate (if the mandate has been taken over by a payee other than the payee who issued the mandate),
  - (xx) the payee's identifier,
  - (xxi) the identifier of the original payee who issued the mandate (if the mandate has been taken over by a payee other than the payee who issued the mandate),
  - (xxii) the remittance information (if any) from the payee to the payer;
- (c) the data elements referred to in Regulation 48(4)(c) are the following –
- (i) the unique mandate reference,
  - (ii) the payee's identifier,
  - (iii) the payee's name,
  - (iv) the amount of the collection,
  - (v) the remittance information (if any),
  - (vi) the identification code of the payment scheme.

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- <sup>1</sup> *chapter 17.245*
  - <sup>2</sup> *chapter 13.250*
  - <sup>3</sup> *chapter 17.245.57*
  - <sup>4</sup> *chapter 13.075*
  - <sup>5</sup> *chapter 15.240*
  - <sup>6</sup> *chapter 13.225*