



Financial Services (Banking Reform) Act 2013

2013 CHAPTER 33

PART 5

REGULATION OF PAYMENT SYSTEMS

"Payment system" etc

41 Meaning of "payment system"

- (1) In this Part "payment system" means a system which is operated by one or more persons in the course of business for the purpose of enabling persons to make transfers of funds, and includes a system which is designed to facilitate the transfer of funds using another payment system.
- (2) But "payment system" does not include—
- any arrangements for the physical movement of cash;
 - a system which does not make any provision for the transfer of funds by payers, or to recipients, in the United Kingdom;
 - a securities settlement system operated by a [^{F1}recognised CSD];
 - a system operated by a recognised clearing house [^{F2}or a recognised CSD];
 - any other system whose primary purpose is not that of enabling persons to transfer funds.

[^{F3}(2A) In this Part—

"funds" includes digital settlement assets (except in section 41(2)(e));

"digital settlement asset" means a digital representation of value or rights, whether or not cryptographically secured, that—

- can be used for the settlement of payment obligations,
- can be transferred, stored or traded electronically, and

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- (c) uses technology supporting the recording or storage of data (which may include distributed ledger technology).
- (2B) In this section, “digital settlement asset” includes a right to, or interest in, a digital settlement asset.
- (2C) The Treasury may by regulations amend the definition of “digital settlement asset” in subsection (2A).]
- (3) In this section—
- [^{F4}“recognised CSD” has the meaning given by section 285(1) of FSMA 2000;]
- “recognised clearing house” has the meaning given by section 285(1) of FSMA 2000;
- “securities settlement system” means a computer-based system, and procedures, which enable title to units of a security to be evidenced and transferred without a written instrument, and which facilitate supplementary and incidental matters.
- (4) The Treasury may by order amend this section so as to—
- (a) add descriptions of systems or arrangements that are not to be regarded as payment systems, or
 - (b) vary or remove any such description.

Textual Amendments

- F1** Words in s. 41(2)(c) substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), [reg. 1](#), [Sch. para. 16\(2\)\(a\)](#) (with [regs. 7\(3\)\(b\)\(4\)](#), [9\(1\)](#))
- F2** Words in s. 41(2)(d) inserted (27.3.2019) by [The Uncertificated Securities \(Amendment and EU Exit\) Regulations 2019 \(S.I. 2019/679\)](#), [regs. 1\(2\)](#), [3\(2\)](#) (with [regs. 10-12](#))
- F3** [S. 41\(2A\)-\(2C\)](#) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), [s. 86\(2\)\(a\)](#), [Sch. 6 para. 41\(2\)](#)
- F4** Words in s. 41(3) inserted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), [reg. 1](#), [Sch. para. 16\(2\)\(b\)](#) (with [regs. 7\(3\)\(b\)\(4\)](#), [9\(1\)](#))

Commencement Information

- I1** [S. 41](#) in force at 1.3.2014 by [S.I. 2014/377](#), [art. 2\(1\)\(a\)](#), [Sch. Pt. 1](#)

42 Participants in payment systems etc

- (1) This section applies for the purposes of this Part.
- (2) The following persons are “participants” in a payment system—
- (a) the operator of the payment system (see subsection (3));
 - (b) any infrastructure provider (see subsection (4));
 - (c) any payment service provider (see [^{F5}subsections (5) and (5A)]).
- (But see also subsection (8).)
- (3) “Operator”, in relation to a payment system, means any person with responsibility under the system for managing or operating it; and any reference to the operation of a payment system includes a reference to its management.

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- (4) “Infrastructure provider”, in relation to a payment system, means any person who provides or controls any part of the infrastructure used for the purposes of operating the payment system.
- (5) “Payment service provider”, in relation to a payment system, means any person who provides services to persons who are not participants in the system for the purposes of enabling the transfer of funds using the payment system.
- [^{F6}(5A) “Payment service provider” in relation to a payment system that includes arrangements using digital settlement assets means—
- (a) a person responsible for managing the issuance and redemption of digital settlement assets;
 - (b) a person whose business or occupation is to safeguard, or to safeguard and administer digital settlement assets, including their private cryptographic keys (or means of access);
 - (c) a digital settlement asset exchange provider;
 - (d) a person who—
 - (i) sets rules, standards, or conditions of access or participation in relation to the system, or
 - (ii) provides any service that facilitates, or supports, a transfer of money or digital settlement assets to be made using the system, including any infrastructure provider in relation to the system.]
- (6) A payment service provider has “direct access” to a payment system if the payment service provider is able to provide services for the purposes of enabling the transfer of funds using the payment system as a result of arrangements made between the payment service provider and the operator of the payment system.
- (7) Any reference to participation in a payment system is to be read in accordance with this section, and in particular—
- (a) in the case of an operator of a payment system, includes a reference to developing the system, and
 - (b) in the case of a payment service provider with direct access to a payment system, includes a reference to entering into an agreement with a person to enable the person to become a payment service provider in relation to the system.
- (8) The Bank of England is not to be regarded as a participant of any kind in any payment system.

Textual Amendments

- F5** Words in s. 42(2)(c) substituted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 42\(2\)](#)
- F6** S. 42(5A) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 42\(3\)](#)

Commencement Information

- I2** S. 42 in force at 1.3.2014 by [S.I. 2014/377](#), art. 2(1)(a), [Sch. Pt. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the Financial Services (Banking Reform) Act 2013, Cross Heading: "Payment system" etc.