

The Revised Payment Services Directive - (PSD II) (EU) 2015/2366

PSD II comes into effect on **13 January 2018**.

The UK has transposed PSD II by enacting the Payment Services Regulations 2017 (PSR 2017) and amending the Electronic Money Regulations 2011 (EMR 2011). PSD II has brought about numerous changes impacting firms' processes, systems and controls, policies and procedures. The new rules have a much wider scope and capture some firms that previously operated outside the regulatory perimeter. These firms will need to evaluate the changes being introduced to see whether they can to continue to rely on an exemption, or whether they will need to seek regulatory registration or approval from the FCA.

Why has PSD II been implemented?

PSD II updates and complements the EU rules put in place by the Payment Services Directive (PSD I)(2007/64/EC). The objectives of PSD II are to make payments safer and more secure, increasing consumer protection. The implementation of PSD II will also contribute to a more integrated and efficient European payments market. It will encourage lower prices for payments and promote competition in line with the FCA's objectives to protect consumers, promote competition, and enhance and protect the integrity of the UK financial system.

The scope of the PSR 2017

The PSR 2017 will apply to all firms that provide payment services as a regular business activity in the UK.

The PSR 2017 also apply in a limited way to persons that are not payment service providers, for example, cash withdrawal service providers and commercial agents who process payment transactions whilst acting for both the buyer and the seller.

The following types of firms will require either authorisation or registration under PSD II:

- Account Information Service Providers (AISPs);
- non-bank credit card issuers;
- Payment Initiation Service Providers (PISPs);
- money remittance providers;

- services enabling cash withdrawals;
- merchant acquiring firms; and
- certain electronic communication network operators.

Exemptions and exclusions

Not all providers of payment services will require authorisation or registration. There are certain exemptions and exclusions that firms may be able to benefit from, such as the commercial agent exemption. This exemption already exists under PSD I, but under PSD II this exemption has been narrowed in scope. Additionally, Registered Account Information Service Providers (RAISPs) that only provide Account Information Services (AIS) are exempt from full authorisation, but they are subject to registration requirements. However, even if your firm currently benefits from an exemption, you must still comply with the conduct of business requirements of the PSR 2017.

At Moore Stephens we specialise in providing advice on these and other exclusions under the PSR 2017 that firms can consider.

Electronic Money Regulations

As mentioned, the PSR 2017 amend the EMR 2011 to capture changes to the e-money regulatory regime. This means that firms already under the scope of the EMR 2011 will need to meet the revised standards under the new regime. The current '*Approach Document for E-Money institutions*' has been combined with the '*Payment Services approach*' document to form the new FCA document: '*Payment Services and Electronic Money – Our Approach: The FCA's role under the Payment Services Regulations 2017 and the Electronic Money Regulations 2011*'.

Under the new PSD II regime, for all existing authorised and Small E-Money Institutions (EMIs) to continue to issue e-money, they will need to be re-authorised or re-registered. The new information required under the PSR 2017 will differ depending on the type of firm. These have been set out overleaf.

Key dates for firms currently authorised/registered under PSD I

Firm type	Date window opens to provide new information required	Date window closes	Date at which existing authorisation ceases if all new information not supplied to the FCA
Authorised payment institutions (APIs)	13 October 2017	13 April 2018	13 July 2018
Authorised e-money institutions (Authorised EMIs)	13 October 2017	13 April 2018	13 July 2018
Small e-money institutions (Small EMIs)	13 October 2017	13 April 2018	13 July 2018
Small payment institutions (Small PIs)	13 October 2017	13 October 2018	13 January 2019

Action required by firms

1. All firms that currently rely on an exemption or exclusion will need to review their business activities alongside the changes to the current exemptions to consider the impact of the new regulations on their business model.
2. All APIs and authorised EMIs currently authorised and registered will need to be re-authorised and re-registered and provide all the new information required to the FCA before 13 April 2018 in order to continue operating on or after 13 July 2018.
3. Small PIs will need to provide this new information to the FCA before 13 October 2018 in order to continue operating on or after 13 January 2019.
4. Firms subject to re-authorisation and re-registration must complete the new bespoke forms, as well as familiarise themselves with the proposed transitional arrangements and take action where required.
5. Firms should familiarise themselves with the extension to reporting requirements, specifically:
 - the 'payment services complaints' return;
 - fraud reporting; and
 - close links and controller reports (APIs only – REP001 and REP002).

How can we help?

We assist firms with:

- assessing your position under the PSR 2017 and determining whether any exemptions apply;
- providing gap analysis support for firms coming into the scope of the PSR 2017;
- understanding and meeting the new information requirements;
- completing and submitting of applications;
- providing the supporting documentation needed when submitting your application;
- dealing with FCA interaction;
- providing bespoke compliance policies and procedures to meet ongoing regulatory obligations;
- assist with meeting ongoing FCA requirements post-approval; and
- carrying out compliance health checks and providing AML training.

Please contact our regulatory consulting team on regulation@moorestephens.com for further information.

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